DOCUMENT RESUME

ED 279 583 SO 017 955

TITLE	The Blessings of Liberty. User's Guide.
INSTITUTION	American Historical Association, Washington, D.C.; American Political Science Association, Washington, D.C.; Project '87, Washington, DC.
SPONS AGENCY	EXXON Education Foundation, New York, N.Y.
PUB DATE	86
NOTE	73p.; This guide is used with 12 posters (22" X 36") available from Project '87.
AVAILABLE FROM	Project '87 of the American Historical Association and the American Political Science Association, 1527 New Hampshire Avenue, NW, Washington, DC 20036 ($4.00).
PUB TYPE	Guides - Classroom Use - Guides (For Teachers) (052) -- Guides - Classroom Use - Materials (For Learner) (051)
EDRS PRICE	MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	*Constitutional History; Discussion Groups; Elementary Secondary Education; Lesson Plans; Postsecondary Education; *Resource Materials; *Resource Units; United States History
IDENTIFIERS	Posters; *United States Constitution

ABSTRACT

The story of the United States Constitution is told in 12 posters: "The Blessings of Liberty"; "The Articles of Confederation"; "A 'Less Perfect' Union, 1781-1788"; "The Constitutional Convention"; "The Founders' Achievement"; "The Anti-Federalist Argument"; "Ratification"; "The Bill of Rights"; "A City Plan for the Constitution"; "The Principle of Federalism"; "The Supreme Law of the Land"; and "To Ourselves and Our Posterity." This User's Guide features narrative essays which expand upon the subject of each of the posters. A variety of additional resources are provided to enable organizations to assist viewers in learning about the evolution of the Constitution: a chronology of dates marking important historical events connected to the Constitution; The Articles of Confederation, which preceded the Constitution as an instrument of governance; the Constitution itself (with amendments); and a basic bibliography of books about the Constitution for the general reader. Material is also provided for teaching about the Constitution on various educational levels. Three sets of lessons enable teachers to use the posters in their classroom. Additional lessons, with worksheets, are suitable for elementary, junior, and senior high school students. An essay on 18th-century constitutionalism can be used by teachers and adult participation groups. A final syllabus provides guidance for a formal series of seminars. (APG)

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The Blessings of Liberty

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"THE BLESSINGS OF LIBERTY"
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For Project '87's Education and Public Programs:
The William and Flora Hewlett Foundation
The Andrew W. Mellon Foundation
The National Endowment for the Humanities
The Ford Foundation
The Lilly Endowment, Inc. of Indianapolis, Indiana
CSX Corporation

Support for the User's Guide comes from the Exxon Education Foundation.

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INTRODUCTION

"THE BLESSINGS OF LIBERTY" tells the story of the United States Constitution in twelve posters:

The Blessings of Liberty
The Articles of Confederation
A "Less Perfect" Union, 1781–1788
The Constitutional Convention
The Founders' Achievement
The Anti-Federalist Argument
Ratification
The Bill of Rights
A City Plan for the Constitution
The Principle of Federalism
The Supreme Law of the Land
To Ourselves and Our Posterity.

Accompanied by this User's Guide, the exhibit provides a readily available educational exhibit and program for the Bicentennial of the Constitution, suitable for use effectively in libraries, civic centers, businesses, schools and other community institutions.

Clear and striking images in full color are designed to attract the attention of viewers. Vivid graphics accentuated by brief texts convey information about historical events and constitutional principles.

"THE BLESSINGS OF LIBERTY" can be displayed on several dates beginning with and extending beyond the celebration of the Constitution's Bicentennial: notable anniversaries of the constitutional convention and state ratifying conventions; Flag Day; Law Day; and History Day.

The exhibit may be displayed alone, or it may be used in conjunction with other programs, such as:

- dramatic and musical presentations honoring the Bicentennial
- library and college reading/discussion programs
- school debate competitions and mock trials
- community forums sponsored by civic clubs
- courthouse Bicentennial days
- formal classroom instruction.

The User's Guide is designed to enhance and support all of these activities. The articles and features in the User's Guide may be duplicated without restriction.

A narrative essay by Mary K. B. Tachau expands upon the subject of each of the posters. Organizations that display the poster exhibit may choose to reproduce the essay and make it available as a hand-out to visitors who would like more information about the creation of the Constitution.

A variety of additional resources—a chronology of dates marking important historical events connected to the Constitution, the Articles of Confederation, which preceded the Constitution as a national instrument of governance, the Constitution itself (with amendments), and a basic bibliography of books about the Constitution for the general reader—enable organizations to assist viewers who would like to extend their own learning about the evolution of the Constitution.

The User's Guide also contains materials for teaching and community discussion groups about the Constitution. In particular, three sets of lessons by Judith E. Greenberg and Helen H. Carey enable teachers to use the poster exhibit easily in their classrooms. The Guide includes lessons suitable for elementary, junior and high school students, complete with worksheets.

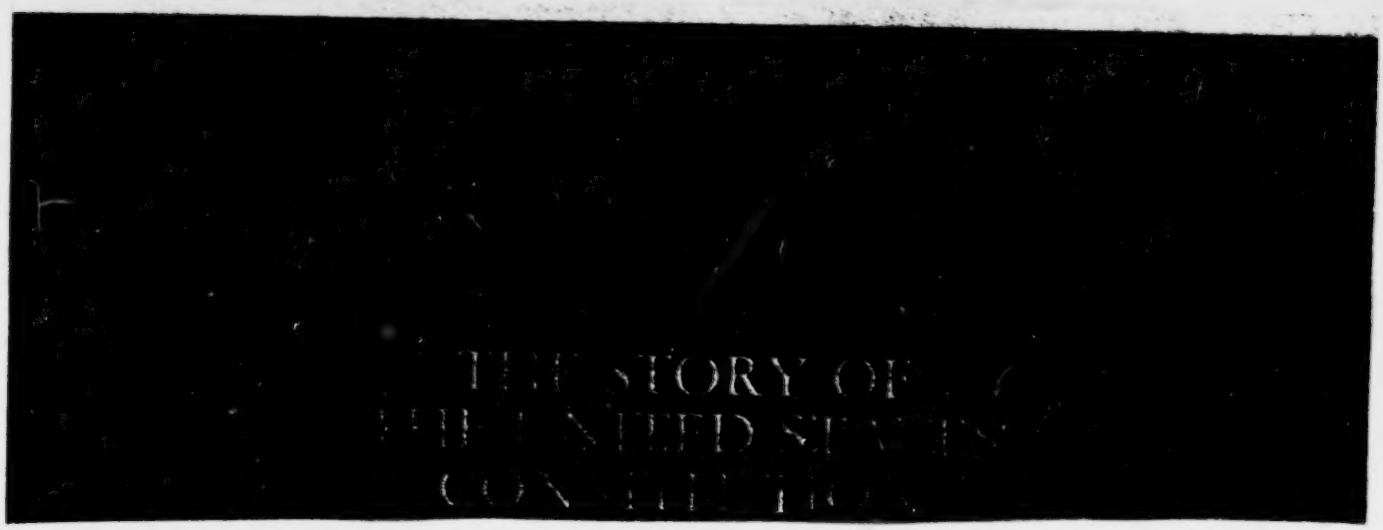
An essay by Gordon Wood on eighteenth-century constitutionalism can be used by teachers and may be distributed to adults participating in discussion groups organized by libraries or civic clubs.

Additionally, a syllabus by Murray Dry provides guidance for a more formal series of seminars, arranged by host institutions that elect to engage a local scholar to serve as the series leader.

"THE BLESSINGS OF LIBERTY" has been conceived and developed by Project '87's Exhibit Task Force:

Joan R. Challinor, Chair, National Museum of American History, Smithsonian Institution, *Patricia Acheson*, Washington, D.C., *Richard L. Bushman*, Department of History, University of Delaware, *Milton C. Cummings, Jr.*, Department of Political Science, Johns Hopkins University, *Margaret Duckett*, Friends of Independence National Historical Park, *Craig Eisendrath*, Pennsylvania Humanities Council, *Calvin P. Otto*, Vermont Heritage Press, *Mary K.B. Tachau*, Department of History, University of Louisville, *James S. Young*, Department of Government and Foreign Affairs, University of Virginia.

The exhibit has been officially recognized by the Commission on the Bicentennial of the United States Constitution.



Essay by
Mary K. Bonsteel Tachau
Professor of History
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POSTER NO. 1

THE BLESSINGS OF LIBERTY

The title poster of this exhibit features a quotation from the Preamble of the Constitution, "The Blessings of Liberty," with a pen and an inkwell. Together, they symbolize the continuing American commitment to securing the blessings of liberty under a written constitution.

The conviction that government must be based upon a written agreement was first expressed in America by the Pilgrims, who signed the Mayflower Compact before they went ashore to establish their colony at Cape Cod in November 1620. Nineteen years later, settlers in Connecticut linked a written framework for government as a necessary precondition "to mayntayne and presearve the liberty and purity of the gospell," and "liberty of speech" when they wrote "Fundamental Orders" for their colony in January 1639. When the American colonists rebelled against the British in 1776, they explained their reasons in a written document. Jefferson incorporated those reasons in the Declaration of Independence, stating that governments are instituted for the purpose of securing "Life, Liberty, and the pursuit of Happiness." Americans had learned that it was necessary to have a written constitution that would limit the powers of government in order to protect the rights of the people. Their commitment to a written frame of government that would protect the people under its jurisdiction is repeated in the last clause of the Preamble to the Constitution, which states that one of the purposes of the Constitution is "to secure the blessings of liberty to ourselves and our posterity."

Others have reaffirmed that commitment over the years. In his 1863 address at Gettysburg, Lincoln spoke of "our forefathers,

who brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal." Franklin Delano Roosevelt further defined the blessings of liberty when he enunciated the "Four Freedoms" in January 1941—freedom of expression, freedom of religion, freedom from want, and freedom from fear. And John F. Kennedy made the commitment anew in his 1961 Inaugural Address, when he asserted that the United States would "bear any burden, pay any price," to assure "the success of liberty."

Two centuries ago in 1787, America's leaders believed that it was necessary to create a written constitution to secure "the blessings of liberty." During the decade before the Declaration of Independence, the British Parliament was able to violate the rights of the people in the North American colonies because its powers were unlimited. Great Britain did not then, and does not now, have a written constitution that limits the authority of the legislative branch of government. From time to time, Parliament has passed laws protecting the rights of the people, but any laws that Parliament passes it can also rescind. Americans wanted to base their government on a written constitution that could not be changed by ordinary statutes passed by a legislative body. They wanted a government whose authority was limited to the powers described in that constitution. Only by specifying the government's powers in writing, they believed, would their liberties be truly secure.

The conviction that America should have a written constitution that would limit the authority of government so that the liberties of the people would be protected can be seen in the two resolutions that Richard Henry Lee of Virginia offered to the members of the Continental Congress on June 7, 1776. The first resolution was that "these United Colonies are, and of right ought to be, free and independent States." Congress appointed a committee to incorporate that resolution into a larger statement, which became the Declaration of Independence. After it was adopted on July 4, Americans considered themselves independent of the king, but they had to fight for seven long years before Great Britain recognized their independence.

Lee's second resolution was that "a plan of confederation be prepared and transmitted to the respective colonies for their consideration and approbation." That resolution led to the Articles of Confederation. Just as the Declaration of Independence was a revolutionary act for which there were no precedents, so, also, were the Articles of Confederation a revolution-

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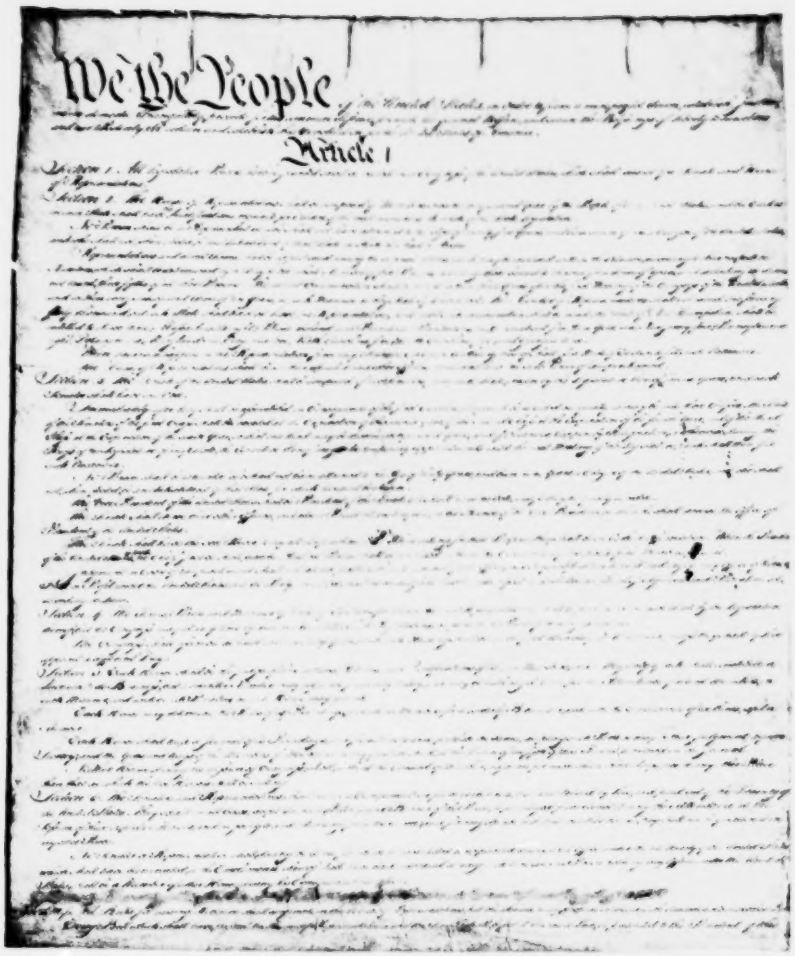

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ary form of government for which there were no precedents. The Articles of Confederation constituted the first American experiment in national self-government under a written constitution.

The Articles of Confederation were submitted to the Continental Congress only a week after the Declaration was approved. Congress debated them for over a year. In November 1777, Congress adopted them and sent them to the thirteen states for ratification.

If the Articles were to establish the government of the United States, all thirteen would have to ratify them. There the Articles encountered a variety of objections, especially from people in the states that did not have claims to western lands. Those people thought that they might become impoverished by taxes needed to pay their states' share of the support and defense of the nation, while people in the landed states (especially Virginia) would be exempt from taxation because those states could make their contributions to the common treasury simply by selling western land. Even after all the other states had ratified the Articles of Confederation, Maryland refused to do so. Thus, the Continental Congress, which was originally expected to be only a temporary coordinating body, conducted the War for Independence and acted for the nation for six years.

When Virginia agreed to cede to the nation all claims to the territory northwest of the Ohio River, the question of western lands was finally settled. Maryland then ratified the Articles of Confederation. America's first national government under a written constitution began in March 1781, when the new Congress assembled in Philadelphia.

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POSTER NO. 2

THE ARTICLES OF CONFEDERATION

The cartoon on this poster illustrates how Americans tried to build an efficient national government under the Articles of Confederation. The rectangular building blocks in the wall represent strengths and successes of the government; the round uncut stones represent significant powers that it lacked. The picture suggests that when the stones are chiseled into shape, they will fill in the spaces between the blocks and strengthen the government. That process would not be completed until the Constitution was written and adopted.

The Articles of Confederation, which preceded the Constitution, created "a firm league of friendship" among the states and bound them together "for their common defense, the security of their liberties, and their mutual and general welfare." However, the bonds that united the states were very loose. Each state retained its "sovereignty, freedom and independence, and every power, jurisdiction and right" which was not "*expressly* delegated to the United States." The states sent delegates to the Congress—a legislative body—which held specific powers laid out in the Articles of Confederation.

Congress had power to make war and conclude treaties, borrow money, establish post offices, appoint all naval officers and all army officers above regimental rank and set the value of money and the standards for weights and measures. These powers made it possible for Congress to achieve the successes illustrated by the building blocks.

Under the Articles of Confederation, the War for Independence was brought to a successful conclusion. Benjamin Franklin, John Adams, and John Jay negotiated the Treaty of Paris, which Great Britain signed in 1783. Under the terms of this Treaty, the war was ended and Great Britain recognized the independence of the United States. The boundaries of the new nation extended as far west as the Mississippi River, as far south as Spanish Florida, and as far north as the Great Lakes. (The precise northern boundary lines for what became Maine and Minnesota were postponed for later negotiations; the agreement that they would be determined later was itself an important precedent.) Americans could fish and dry their catches off the eastern banks of Canada, an important factor for New Englanders in the years before ships had refrigeration. The United States promised not to interfere with the collection of debts owed to British merchants and to restore the Loyalists' rights and property. It was a good treaty, especially when it is remembered that the Unites States was the newest and most fragile member of the family of western nations, and Great Britain was the oldest and most powerful of that group.

Another important success of Congress under the Articles concerned the territory northwest of the Ohio River and west of Pennsylvania, named the Northwest Territory. Congress passed two ordinances (laws with local application) that set precedents for the future expansion of the nation. The Land Ordinance of 1785 provided that the territory would be surveyed, before it was settled, into townships that were six miles square. Each square mile was a "section" of 640 acres. One section in every township was set aside to support public schools, marking the first national commitment to broad public education.

The Northwest Ordinance of 1787 was based upon a proposal that Jefferson had made three years earlier. It provided for five of seven states to be carved out of the Northwest Territory. Statehood would be achieved by a series of orderly steps of increasing self-government, bridging the gap from a wilderness of widely scattered

households to populated and established communities. The new states that would be formed in the Territory would be, in every way, the equal of the original thirteen states. Thus, the Northwest Ordinance specifically repudiated the second-class colonial status that Americans had experienced when they were part of the British empire. The Northwest Ordinance also prohibited slavery—a national determination that would have consequences for generations to come.

However, the Articles of Confederation had fundamental problems. For the most part, the Articles merely institutionalized and regularized the functions of the original Continental Congress. The Confederation Congress, like the Continental Congress, made laws but had little power to enforce them. Congress set up committees to act as courts; but sometimes state judges paid no attention to their rulings. Congress also tried to administer the government through a committee system; often those committees, too, were ignored.

A central government that was dependent upon states that retained their own sovereignty proved to be too weak. Americans wanted a more effective and responsive government. They needed independent judges who could interpret the laws and decide where they applied. Perhaps even more important, Americans needed an independent executive who would see that the laws were carried out and who could lead the nation through a critical future.

It is hard work to create a new nation. We have some of the building blocks, but not all.
No federal courts
No power to collect taxes
No power to regulate commerce
No exclusive power to coin money
No independent executive power
Conducted the War for Independence
True enough. But time and ingenuity may provide the missing blocks
Laid the foundation for a central government

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POSTER NO. 3

A "LESS PERFECT" UNION

1781–1788

This poster describes some of the problems that led many Americans to support major revisions of the Articles of Confederation. One of those problems was the difficulty of resolving disputes between the states. Virginia and Maryland disagreed about which state had jurisdiction over the Potomac River and who would pay for improving navigation in the Chesapeake Bay. In March 1785, representatives from those states met at Alexandria and later at George Washington's home at Mount Vernon. After drafting recommendations for their own state legislatures, the representatives invited other states to send negotiators who would join them in trying to resolve additional commercial disputes. The next meeting was to be held at Annapolis a year and a half later.

Another problem under the Articles was that the Confederation Congress did not have sufficient power to enforce the terms of the Treaty of Paris of 1783. Some states passed legislation forbidding people to repay the prewar debts they owed to British creditors and prohibiting the return of Loyalists' property, as the Treaty required. Congress was equally powerless to prevent the British from ignoring some of the sections of the Treaty. The British refused to compensate owners for slaves who had fled to their forces. In addition, the British did not evacuate their posts in the Northwest Territory, from which the Americans believed they were inciting Indian attacks against people who lived on the frontier.

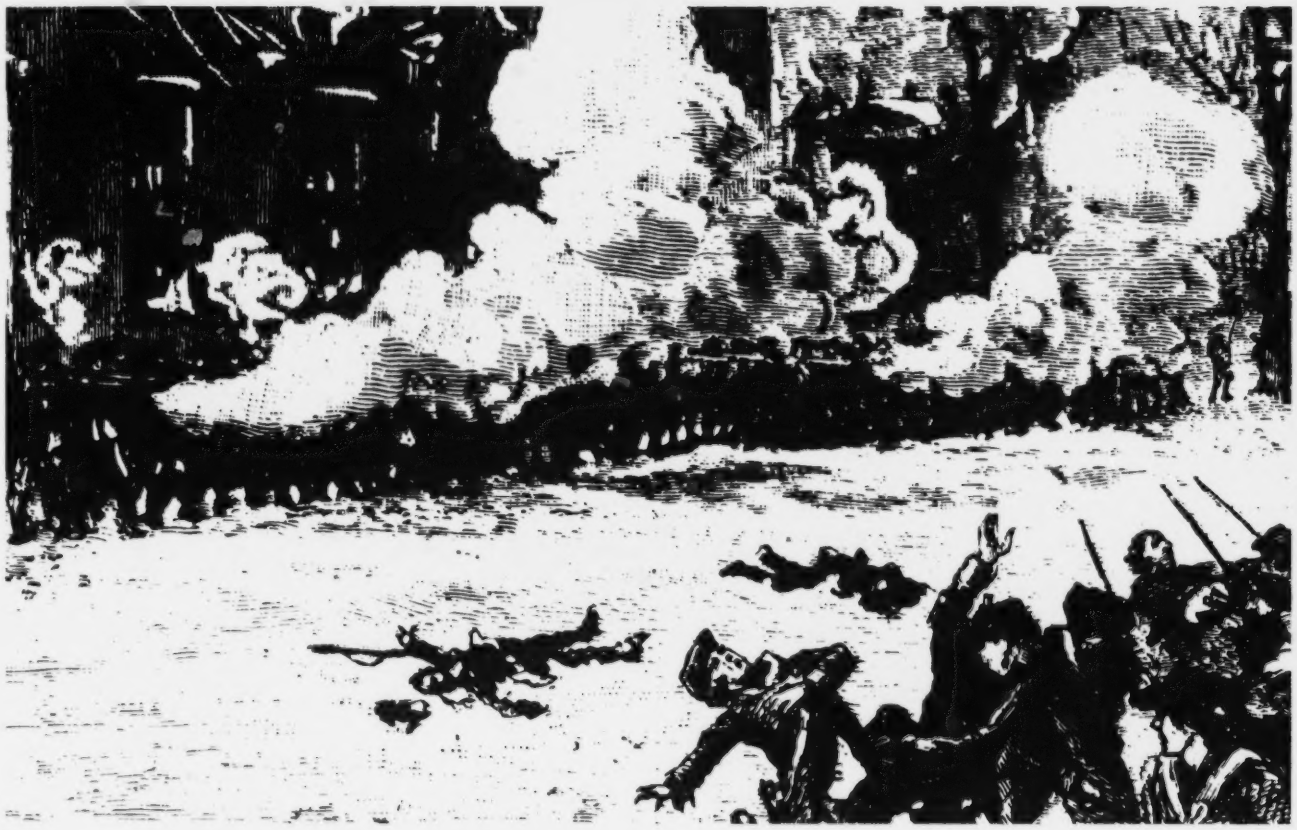
Moreover, Spain refused to allow Americans free navigation of the Mississippi River. Farmers who

lived west of the Appalachian Mountains had no way to get their goods to the markets in the east. If they tried to ship them over the mountains, the value of their goods was consumed by transportation costs; if they tried to ship them down the Ohio and Mississippi Rivers, the Spanish demanded bribes and taxes that could total twenty percent or more of the value of the goods. Westerners were impatient because the government seemed uninterested in their problems, and when Congress recommended that the United States forego navigation of the Mississippi for a generation in return for a commercial treaty that would benefit only the East, they were infuriated. Some wanted to go to war against the Spanish. Others thought that it might be in their best interest to secede from the United States and put themselves under the protection of Spain.

Still another problem related to the supply of money. Specie (coins made of gold and silver) was scarce, especially in the interior of the nation. In order to carry on commercial activity, some states continued to issue paper money just as they had done during the Revolution to pay and supply their troops. In those states, merchants were hurt because paper money was less reliable than hard coin. Where states refused to issue paper money, farmers were particularly hard-pressed to pay their debts—and over ninety percent of Americans were engaged in farming. The ease with which some states printed paper money aggravated the inherent conflict between debtor and creditor groups: debtors wanted more paper money to pay their debts; creditors wanted debts paid in specie.

In the summer of 1786, the Massachusetts legislature refused to issue any more paper money or to extend the time for repayment of mortgages. Armed farmers gather under the leadership of Daniel Shays, a captain during the War for Independence, in order to prevent the courts from convening so that foreclosure notices could not be issued.

When the delegates met at Annapolis in September 1786 and learned about the violence in Massachusetts, they were alarmed. Only eleven years earlier, a similar group of farmers had "fired the shot heard round the world" and initiated the American Revolution. It seemed to many of the delegates that another revolution might be in the making. Yet there were not enough representatives present to consider the commercial disputes they had hoped to resolve, and it



Massachusetts militiamen firing into the ranks of the Shays' rebels, engraving from Richard Devens, *Our First Century* (1878). *Library of Congress*

was clear to many of them that even solving such disagreements would not be sufficient to overcome the problems faced by the United States.

Within a few days they realized that another meeting was essential. Alexander Hamilton drafted a report asking all of the states to send commissioners to meet in Philadelphia the following May. There, it was hoped, they would discuss not only commercial affairs, but also all other matters necessary "to render the constitution of the Federal Government adequate to the exigencies of the Union." In February, that call was endorsed by the Confederation Congress. Plans for the Constitutional Convention were now underway.

POSTER NO. 4

THE CONSTITUTIONAL CONVENTION

The photograph on this poster shows the Assembly Room of the Old State House in Philadelphia as it looked when the members of the Constitutional Convention met behind closed doors during the summer of 1787 to create the Constitution. When the United States celebrated its centennial a century ago, William Gladstone, a former British prime minister, said that the Constitution was "the most remarkable work . . . in modern times to have been produced by the human intellect at a single stroke . . . in its application to political affairs."

Many have wondered how the founders had the vision and the wisdom to invent a new form of government so successfully when they had so few models upon which to build. One of the reasons for their success was their uncommon interest in political theory and their knowledge of history. Yet the past was an uncertain guide. In the seventeenth century, Oliver Cromwell had ruled England briefly under a written constitution called the Instrument of Government, but the republic that it established was associated with standing armies and religious bigotry. The Roman Republic had proven vulnerable to demagogues and was gradually transformed into an autocracy ruled by an emperor. Further, most

people thought that the United States was geographically too large and had too many people for the direct democracy of ancient Athens.

Perhaps the most useful precedents came from the colonial experiences of the American people themselves. For seven generations before their Revolution, the people of the United States had participated in self-government under a variety of forms, procedures, and institutions. Every member of the Constitutional Convention had experience in self-government and understood the political process. They all knew how government worked because they had participated in governing. Many of them had helped remake colonial charters into the constitutions of their own free and independent states. Their practical experience, as well as their knowledge of history and political theory—and the confidence that was generated by the eighteenth-century Enlightenment—made it possible for them to create a workable framework for a new form of government. The chemistry that translated that possibility into reality is best described by James Madison:

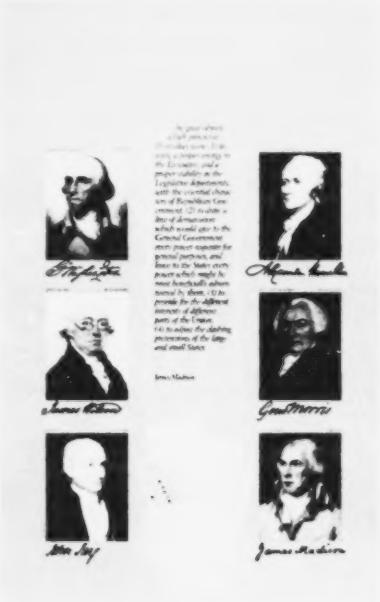
> But whatever may be the judgment pronounced on the competence of the architects of the Constitution, or whatever may be the destiny of the edifice prepared by them, I feel it a duty to express my profound and solemn conviction . . . that there never was an assembly of men, charged with a great and arduous trust, who were more pure in their motives, or more exclusively or anxiously devoted to the object committed to them, than were the members of the Federal Convention of 1787, to the object of devising and proposing a constitutional system which should best supply the defects of that which it was to replace, and best secure the permanent liberty and happiness of their country.

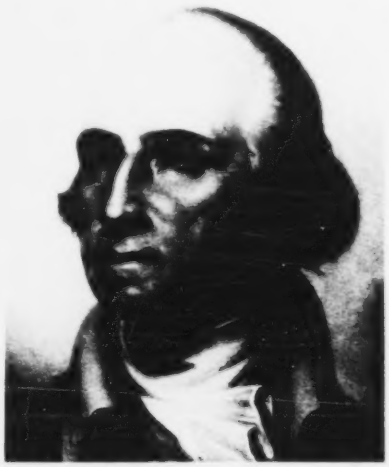
POSTER NO. 5

THE FOUNDERS' ACHIEVEMENT

This poster shows portraits of six Federalist leaders and James Madison's description of the Federalists' greatest achievements. At the bottom of the page are photographs of contemporary newspapers that printed accounts of the Federalists' and Anti-Federalists' arguments on ratification of the Constitution.

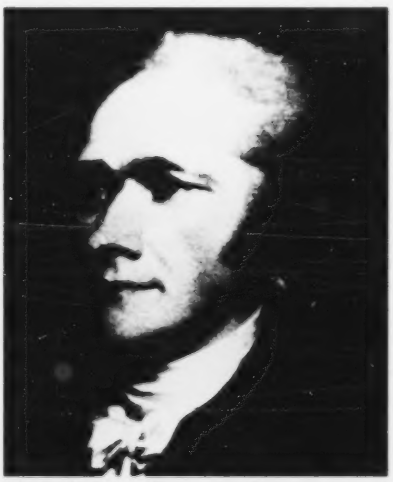
Those who wrote and supported the Constitution were called "Federalists" because they supported a greater degree of authority in the federal government than had been possible under the Articles of Confederation. Their opponents were thus known as "Anti-Federalists" because they feared a strong central government.





George Washington

George Washington, born in Virginia, was already "first in war": the best-known and most respected man in America as the leader of the American forces during the War for Independence. By coming to Philadelphia and presiding over the Convention, he lent it his great prestige. After the Constitution was adopted, he reluctantly left Mount Vernon to become the nation's first president. His character and his leadership made him also "first in peace" and "first in the hearts of his countrymen."



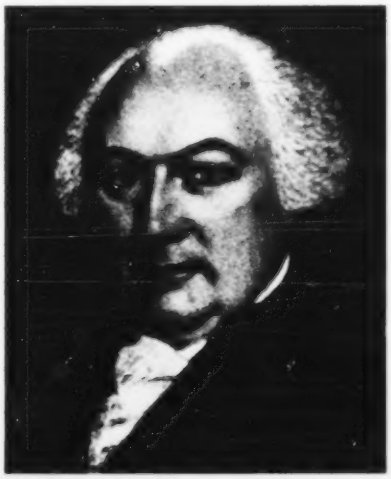
Alexander Hamilton

Alexander Hamilton, born in the West Indies, was a brilliant New York lawyer who had been an aide-de-camp to Washington during the War. He was not present throughout the entire Convention, but his vigorous advocacy of a strong centralized government helped to develop consensus for change. His most important contribution to the Constitution was his authorship of fifty-one of the eighty-five issues of "The Federalist," a series of newspaper essays explaining the Constitution which helped gain ratification in New York. Later, as the nation's first Secretary of the Treasury, he established fiscal programs that assured the financial integrity of the new republic.

James Wilson

James Wilson, born in Scotland and a graduate of its best universities, was the most learned lawyer and dedicated democrat in the Convention. He had earlier been a member of the First and Second Continental Congresses and a signer of the Declaration of Independence. His legal and legislative experience made him valuable in the careful work required to frame the specific provisions of the Con-

stitution. After the Convention, Wilson defended the Constitution in the ratification convention in Pennsylvania. He was also one of the original members of the United States Supreme Court.



Gouverneur Morris

Gouverneur Morris was a wealthy and successful lawyer-businessman and perhaps the most flamboyant member of the Convention. Born in New York, he moved to Pennsylvania and represented that state at Philadelphia. Morris was talkative and assertive, as well as being a skillful compromiser. He fought vigorously for a strong central government and for a single executive directly elected by the people. He later served as Minister to France.

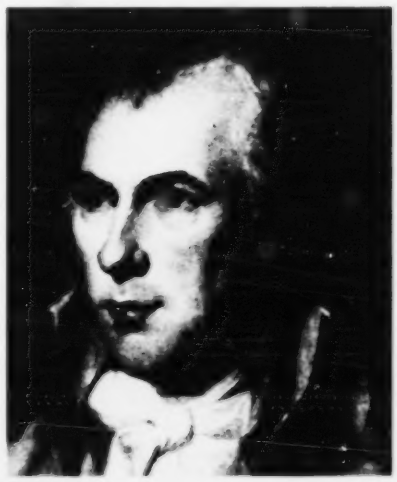
John Jay of New York, although not a member of the Convention, was an important Federalist because of his advocacy of a strong national government and his authorship of five of *The Federalist* papers. As the first chief justice of the United States, he asserted the independence of the United States Supreme Court and initiated the

John Jay

vigorous exercise of federal judicial authority. In 1794, Washington appointed him as a special envoy to Great Britain, where he negotiated a controversial treaty of friendship and commerce. Afterward, he resigned from the Court to become governor of New York and never returned to federal service.

James Madison is often called "The Father of the Constitution." Studious, thoughtful, and thorough, he guided the debates in the Convention. At night, he wrote such extensive notes about the day's events and arguments that his records, published after his death, are the best source for the history of the Convention. He also contributed twenty-six essays to *The Federalist* and was co-author, with Hamilton, of three others. Madison led the fight for ratification in the Virginia convention and was the most important member of the House of Representatives during Washington's first administration. During that term, he drafted what became the first ten amendments to the Constitution, using as his models the 1688 English Declaration of Rights and the 1776 Virginia Bill of Rights that had been written by George Mason. When differing interpretations of the Constitution precipitated the development of political parties, Madison left his earlier Federalist allies and, with Thomas Jefferson, formed the Republican party. Madison was later Secretary of State under Jefferson and in 1808 was elected the fourth president of the United States.

Neither Thomas Jefferson nor John Adams attended the Constitutional Convention. Both were abroad in the service of the nation, Jefferson as Minister to France and Adams as Minister to Great Britain. After the Constitution was adopted, Jefferson returned to the United States to become the first secretary of state; Adams, to become the first vice president of the United States.



James Madison

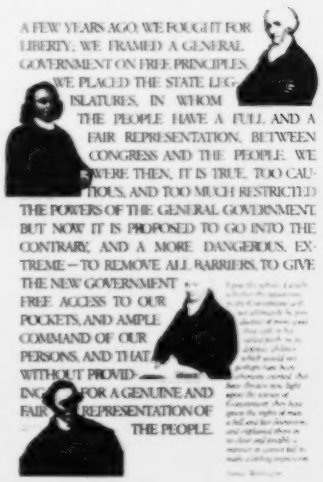
POSTER NO. 6

THE ANTI-FEDERALIST ARGUMENT

Those who opposed the Constitution were called Anti-Federalists, in contrast to its supporters, who were called Federalists. This poster features a quotation from Melancton Smith, a leading Anti-Federalist in New York, and George Washington's thoughtful evaluation of the Anti-Federalist opposition. The poster also shows portraits of prominent Anti-Federalists. From top to bottom they are Elbridge Gerry of Massachusetts, George Mason of Virginia, George Clinton of New York and Patrick Henry of Virginia.

The members of the Constitutional Convention had met in secrecy in order to assure free debate and to make possible the compromises that were needed to bring the document to completion. In September 1787, when the Convention adjourned, the Constitution was sent to the Congress of the Confederation. Congress transmitted it to the states, where it was to be considered by conventions called for the sole purpose of deciding whether or not to ratify the Constitution. In many of the states, Anti-Federalist feeling was so strong that ratification seemed doubtful.

Because the Constitution has worked so well for so long, it is difficult now to understand why many people opposed it when its provisions were made public. But having fought a revolution against one powerful government, Anti-Federalists were afraid that the national government proposed in the Constitution would also become so strong that it, too, would destroy the liberties of the people. The fact that the government was limited to


A FEW YEARS AGO WE FOUGHT FOR LIBERTY. WE FRAMED A GENERAL GOVERNMENT ON FREE PRINCIPLES. WE PLACED THE STATE LEGISLATURES, IN WHOM THE PEOPLE HAVE A FULL AND A FAIR REPRESENTATION, BETWEEN CONGRESS AND THE PEOPLE. WE WERE THEN, IT IS TRUE, TOO CAUTIOUS, AND TOO MUCH RESTRICTED THE POWERS OF THE GENERAL GOVERNMENT. BUT NOW IT IS PROPOSED TO GO INTO THE CONTRARY, AND A MORE DANGEROUS, EXTREME—TO REMOVE ALL BARRIERS, TO GIVE THE NEW GOVERNMENT FREE ACCESS TO OUR POCKETS, AND AMPLE COMMAND OF OUR PERSONS, AND THAT WITHOUT PROVIDING FOR A GENUINE AND FAIR REPRESENTATION OF THE PEOPLE.

the powers specified in the Constitution was not, to them, a sufficient guarantee. The original body of the Constitution did not contain a bill of rights protecting those hard-won freedoms, and Anti-Federalists argued that it was imperative that one be added.

Anti-Federalists also worried about the power that the federal government had to levy taxes, the authority and remoteness of the Supreme Court, and the recognition and protection of slavery. Most of all, they were afraid that this "general consolidated government" would swallow up the states.

Those fears, and the Federalists' responses, were expressed during the debates in the state ratifying conventions. Yet as George Washington stated in the smaller quotation on this poster, the Anti-Federalist opposition—and the debate that it sparked—provided an opportunity to illuminate the science of government as well as the provisions of the Constitution.

What provided stability to America's fragile experiment in self-government under the Constitution was not only the uncommonly wise and flexible provisions of the Constitution itself and the agreement to add a bill of rights, but also, and of equal importance, the attitude of the Anti-Federalists who had earlier opposed it. When the Constitution was ratified, those who had earlier been its opponents accepted it as the supreme law of the land. Unlike France in the 1790s, no one in America wanted to overthrow the government and continue the revolution. The fears of many of the Anti-Federalists were resolved by the Bill of Rights. Other Anti-Federalists, who may have retained their doubts about the new form of government, nevertheless recognized that the new government had been legitimately adopted.

From the beginning of the nation, those who have been in the majority and those who have been in the minority have shared the same understanding about the nature of their responsibilities in a democracy. In the United States, the numerical majority of the people determines the national will within the constraints of the Bill of Rights, which protects the rights of individuals. Even while they work for change, those who dissent from the majority acknowledge the rule of law that governs the political process.

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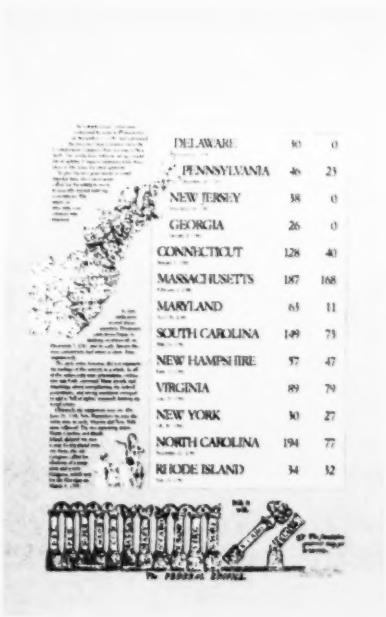
POSTER NO. 7

RATIFICATION

This poster depicts the process of ratification in the thirteen original states, beginning with Delaware and ending with Rhode Island. The votes for and against the Constitution in each state indicate the degree of dispute on the question of adopting it.

Under the provisions of Article VII, the Constitution was to be considered by especially-called conventions in each of the states, *not by the state legislatures*. The members of the Convention had learned from their experiences with Parliament that any action taken by a legislative body could also be rescinded. They wanted the Constitution to be based upon the sovereignty of the people, not merely upon a series of statutes passed by state legislatures. To be adopted, it was necessary that conventions in nine of the states ratify the Constitution. In many of the states, Anti-Federalists argued vehemently against it, and the votes were close. The most common objection to the Constitution was that it did not contain a bill of rights. As time went on, it became clear that, should the Constitution be ratified, the First Congress must approve amendments providing for a bill of rights to be submitted to the states.



When New Hampshire became the ninth state to ratify, the decisions of the conventions in Virginia and New York were still in doubt. Even with nine states, it seemed unlikely that the government could succeed if the people in two such populous states were opposed to the Constitution. Finally, in June 1788, the Constitution was approved in Virginia. The news helped the Federalists in New York, and its convention ratified the following month. North Carolina refused to approve the Constitution until a bill of rights was submitted to the states and did not ratify until November 1789. Rhode Island, the last of the thirteen original states, ratified the Constitution in May 1790.

POSTER NO. 8

THE BILL OF RIGHTS

The people of the United States added the Bill of Rights to the Constitution almost immediately after it was adopted. This poster tells why Madison wrote them and what they are.

These first Ten Amendments to the Constitution protect the liberties and rights of the people from invasion by the government. They were designed to prevent the kinds of abuses that had led to the American Revolution.

The First Amendment, which is perhaps the best known part of the Bill of Rights, protects freedom of speech, press, religion, and the rights of assembly and petition.

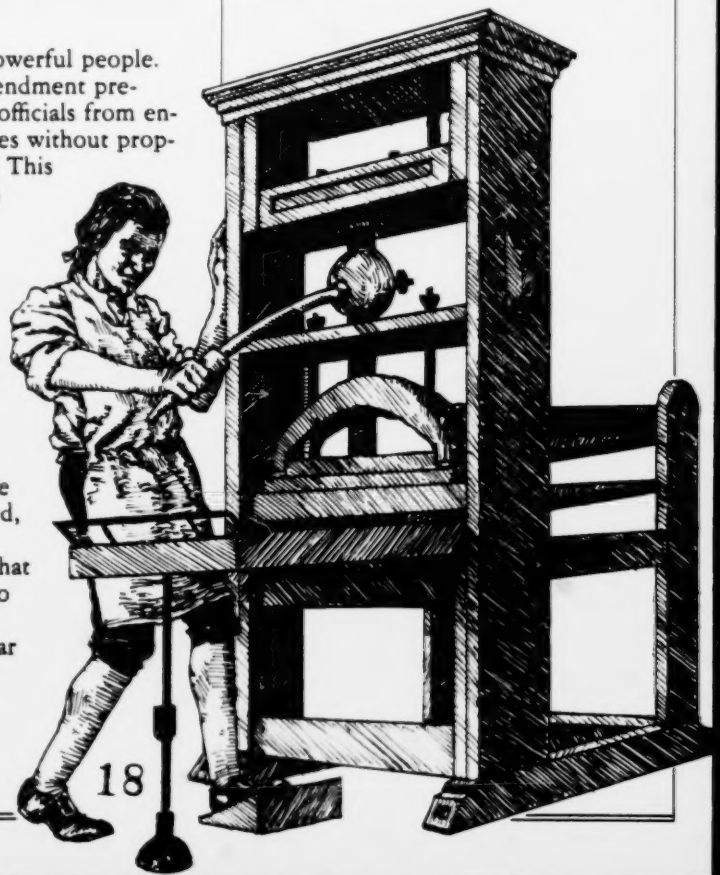
The Second Amendment preserves the right of the people to keep and bear arms in order to have a citizens' militia, reflecting a fear of standing armies.

The Third Amendment prevents quartering of soldiers in people's homes without their consent, except in time of war under laws passed by Congress.

The Fourth, Fifth, and Sixth Amendments are designed to prevent the government from searching, seizing, jailing, or trying people unless there is genuine ("probable") cause to believe that a crime has been committed. When probable cause exists, these amendments guarantee that those who are accused will have the power of the court behind them as they defend themselves, and that they will have fair and open trials. Those who are familiar with the Anglo-American traditions may take these rights for granted, but they are very rare. Most of the people of the world are not similarly protected from the arbitrary actions of government officers or other powerful people.

The Fourth Amendment prevents government officials from entering private homes without proper search warrants. This amendment asserts the right to be protected against unreasonable searches and seizures, except when officers of the government swear in court 1) that there is probable cause to believe that a crime has been committed, 2) that they have reason to believe that evidence relating to that crime may be found in a particular place, and 3) that they can describe specifically the people or things to be seized as evidence. A judge—a neutral person who is the principal officer of a court—must be convinced that all three conditions have been met before permission to search will be granted.

The Fifth and Sixth Amendments guarantee specific kinds of proper procedures to be followed when people are accused of crimes. These procedures constitute what is called the right to "due process of law." Some of these rights are as ancient as the Magna Carta (1215). They are based upon two deeply held beliefs. One is "the presumption of innocence": the belief that people are innocent until a jury of their peers has convicted them. The other is that it is better to let a guilty person go free than to con-



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vict an innocent person.

Thus, the Fifth Amendment guarantees the right to a grand jury indictment before trial, prohibits double jeopardy (being tried twice for the same offense) or being forced to testify against oneself, and requires fair compensation when private property is taken for public use.

The Sixth Amendment guarantees a speedy and public trial by an impartial jury made up of people from the area where the crime was committed, the right to know the charge against oneself, to be able to confront hostile witnesses, to have one's own witnesses, and to have an attorney.

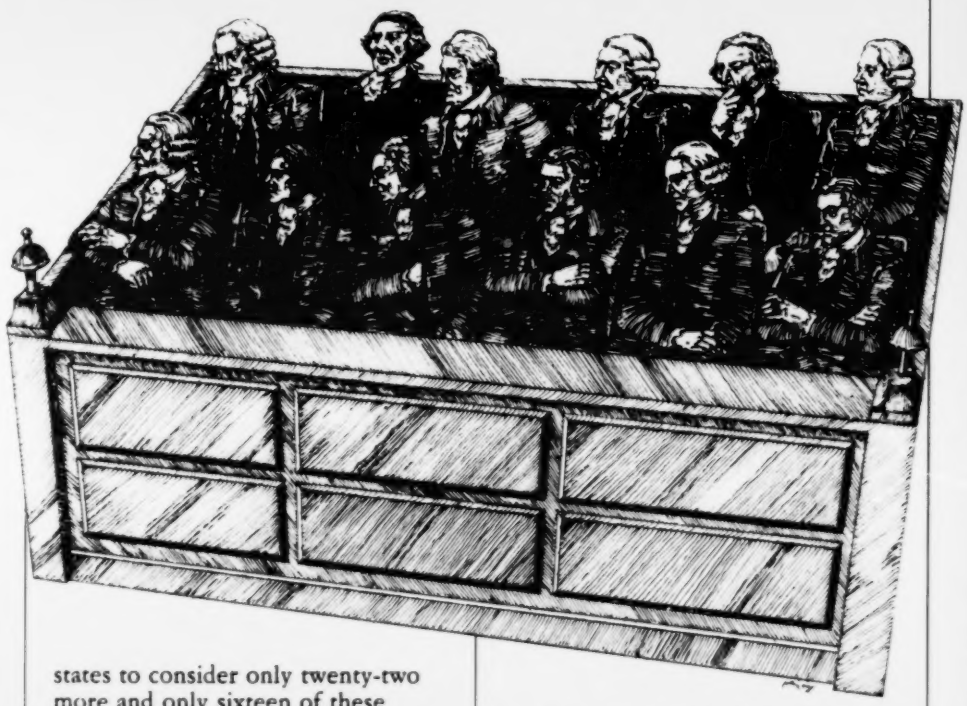
The Seventh Amendment preserves the right to a jury in private lawsuits.

The Eighth Amendment prohibits excessive bail, fines, and cruel and unusual punishments.

The Ninth Amendment states that the people retain rights in addition to those listed in the Constitution.

The Tenth Amendment deals with powers which the Constitution does not give to the federal government or forbid the states to exercise. Those powers are reserved to the states or the people.

Although the Bill of Rights was ratified in a little more than two years, it usually takes more time to amend the Constitution. Since the Bill of Rights was added to the Constitution in 1791, hundreds of other amendments have been suggested. Yet Congress has asked the states to consider only twenty-two more and only sixteen of these have been ratified. There are now a total of twenty-six Amendments to the Constitution.



The Bill of Rights was originally intended to limit the power of the federal government. However, the Fourteenth Amendment (1868) states that "No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Over sixty years ago, a case came before the United States Supreme Court arguing that a state was abridging the right of free speech. Thereafter, in a series of rulings that began in 1925, the Supreme Court has incorporated many of the provisions of the Bill of Rights through the Fourteenth Amendment and has made those provisions limitations on the authority of the states, as well as limitations on the national government.

The Constitution contains other protections that are not in the Bill of Rights. For example, Article I provides for the writ of habeas corpus (the right to know why a person is jailed). It also prohibits bills of attainder (laws that punish individuals without a trial) and ex post facto laws (statutes that define an action as a crime after it was committed).

All of these provisions ensure against the actions of an arbitrary government. It was to secure these rights that Americans fought for six long years to gain their independence. The American Revolution echoes in these safeguards given to us many generations ago.

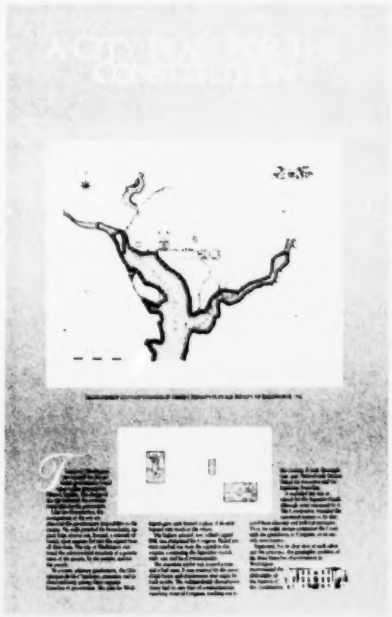
POSTER NO. 9

A CITY PLAN FOR THE CONSTITUTION

The preliminary drawing of Washington, D.C. on this poster illustrates the way that the city was planned for the new government under the Constitution.

The District of Columbia was not always the capital of the United States. Both the Second Continental Congress (1776–1781) and the Congress under the Articles of Confederation (1781–1788) met in Philadelphia, then the largest city in America. When the Constitution went into operation in 1788, Congress met in New York and it was there that George Washington was inaugurated as the first president of the United States. From 1790 to 1800, Philadelphia was again the capital of the nation.

Even during the period when the United States was governed by the Articles of Confederation, Congress thought that a new government should have a new city for its capital. Despite petitions from people in other areas, Congress favored a location on the Potomac River. It was near the mid-point between the most northern and southern of the thirteen original states, and it led into the Ohio Valley and the heartland of the new nation.



The Constitution stated that the District of Columbia could be as large as ten miles square. President Washington chose the site for the new capital a few miles away from his home at Mount Vernon. Together, Maryland and Virginia gave the nation sufficient land on both sides of the Potomac to constitute the District.

Congress wanted the design of the city to manifest constitutional principles, especially the separation of powers between the legislative, executive, and judicial branches. Pierre L'Enfant executed their wishes and planned the Federal City. After a few years, Congress believed that the government would never need so much space, and it gave back the land offered by Virginia. The present city of Washington is situated on the cession made by Maryland.

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POSTER NO. 10

THE PRINCIPLE OF FEDERALISM

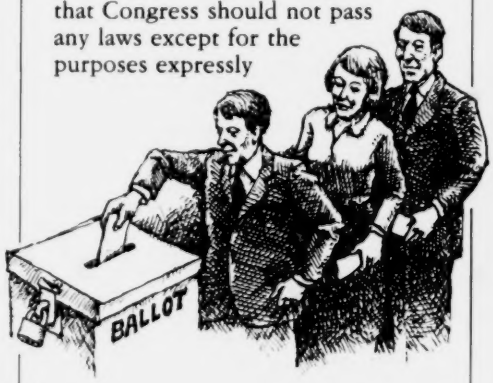
This poster illustrates a motto on the Great Seal of the United States, E PLURIBUS UNUM (Out of Many, One). It expresses the basic principle of federalism, which is that the United States of America is formed by the union of fifty separate states, which share political authority with the national (federal) government.

Many of the members of the Constitutional Convention thought of themselves primarily as citizens of their own states, and only secondarily as citizens of the United States of America. But they had learned from their experiences under the Articles of Confederation that the central government that the Articles set up did not have enough power. Still, they were not willing to sacrifice their state governments for one like Great Britain's, in which all power emanates from the central government.

James Madison fully understood and appreciated their dilemma. A month before the Constitutional Convention began, he wrote to George Washington, "I have sought for a middle ground, which may at once support a due supremacy of the national authority, and not exclude the local authorities wherever they can be subordinately useful." As with other political questions, Madison provided the solution to the problem. Instead of a government in which sovereignty resided in the states (as under the Articles) or a unitary government in which the central government had unlimited power (like Great

Britain's), he proposed a plan under which political authority would be divided and shared between the states and the national government. Madison's "middle ground" became what is called "federalism." After long discussion, the delegates to the Convention agreed to give up some of their states' sovereignty in order to achieve genuine unity and create a nation. This division and balancing of political power between the central government and the states represents one of the founders' most significant innovations.

Yet the language that defines federalism is not always clear, and there have been many differences of opinion about how the Constitution should be interpreted. Section 8 of Article I lists the powers that are granted to Congress. The final paragraph of section 8 also gives Congress power "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers. . . ." This paragraph has been called the "elastic clause" because it can be stretched to give Congress powers that are not specifically listed earlier. Alexander Hamilton and, later, John Marshall interpreted the elastic clause to mean that Congress could pass laws that were—in the words of section 8—"necessary and proper" for carrying out the enumerated powers listed before the elastic clause. But Thomas Jefferson, and others who were afraid of a strong central government, thought that Congress should not pass any laws except for the purposes expressly



listed in section 8. Generally, Hamilton's and Marshall's interpretation has prevailed. For as Madison pointed out, Congress under the Articles of Confederation had been limited to the powers *expressly delegated* to it, and the members of

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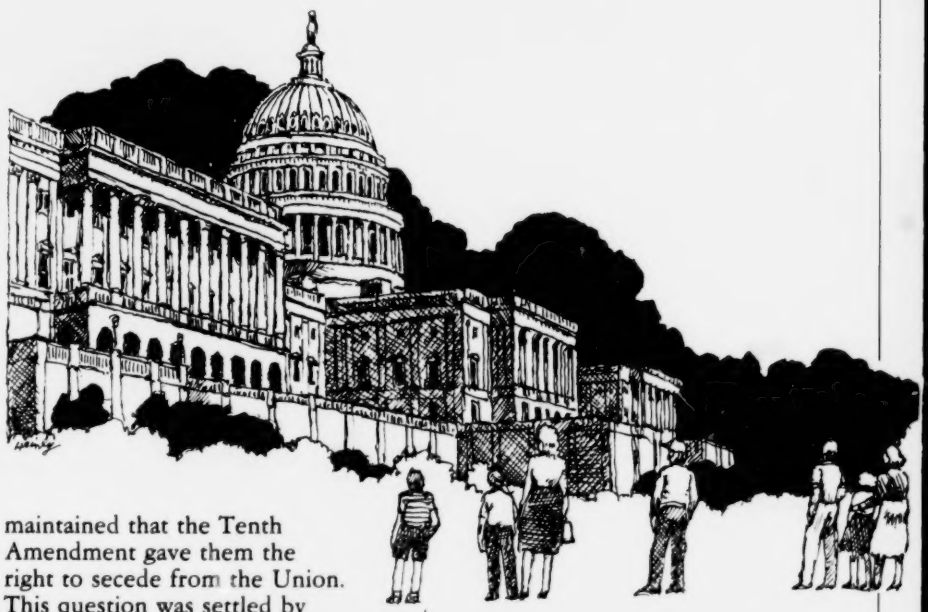
the Convention deliberately omitted the word "expressly" from the Constitution.

Much of the argument now over the balance of power between the federal and state governments concerns the interpretation of the Tenth Amendment. That amendment, ratified in 1791, said that powers that the Constitution did not give to the national government or expressly deny to the states are reserved to the states and the people. (Section 10 of Article I lists powers that the states are forbidden to use.)

Many early conflicts between state and federal powers centered on slavery. Northern states claimed that they did not have to enforce federal Fugitive Slave Acts because the Tenth Amendment reserved to them the right to pass contrary laws. Later, southern states wishing to protect the institution of slavery maintained that the Tenth Amendment gave them the right to secede from the Union. This question was settled by force; the outcome of the Civil War determined that states do not have the right to leave the Union.



Since the Civil War, the nation has generally been recognized as supreme within its area of jurisdiction, although "states' rights" arguments are still propounded from time to time on other matters.

Federalism involves not only the balancing of authority between the federal government and the states, but also certain obligations that the federal government has to the states. Section 4 of Article IV describes these responsibilities. The United States guarantees every state a republican form of government—one in which the people are sovereign and rule through their elected representatives. The federal government also protects the states against invasion, and from domestic violence when asked to do so by a state legislature or (if it cannot be convened) by the governor. Under these provisions, the nation could protect the states when there were other uprisings like Shays' Rebellion, and from time to time it has done so. The delegates to the Constitutional Convention recommended that the American people should give up some of the sovereign rights of their states in order to be more surely protected in others. The federal union that they created has provided stability and flexibility; it is responsive to the needs of the people, the states, and the nation.

The concept of federalism has been useful to other countries, too. The people of every nation that has written a constitution since 1787 have had the American constitution to use as a model. Many have chosen a federal form of government because it permits local diversity as well as national union and identity. Federalism is one of the most useful gifts the founders'—and thus, America—have made to the emerging nations of the world.

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POSTER NO. 11

THE SUPREME LAW OF THE LAND

This poster shows the section of Article VI of the Constitution that contains the statement of constitutional supremacy, the rear pediment of the United States Supreme Court building on which is written "Justice, the Guardian of Liberty," and a portrait of John Marshall. As chief justice of the United States from 1801 to 1835, Marshall played a major role in developing American constitutional law.

The United States has one supreme law: the Constitution. It also has many other kinds of laws that are subordinate to the Constitution: statutes passed by Congress and state legislatures, decisions made by federal and state judges, and traditional common law and equity law inherited from England. Sometimes these laws conflict with each other.

Thus, it was important to establish which kind of law would prevail when there were conflicts among them or differences of opinion between judges. The founders addressed this question in Article VI. There it states that the Constitution, laws made by Congress on constitutional grounds, and treaties are all the supreme law of the land.

However, the Constitution did not specify who would decide whether a law passed by Congress was constitutional, or how the government could require that individuals observe the terms of a treaty. As early as 1796, the United States Supreme Court upheld a congressional statute whose constitutionality was challenged. In the early republic, presidents often thought that they were the best judges of whether congressional legislation was constitutional, and members of Congress thought that because

their branch of government represented the people more directly than the others, the legislation that they passed should not be questioned.

In 1803, two years after John Marshall became chief justice, the Supreme Court decided a case called *Marbury* v. *Madison*. The case raised this question: could Congress enlarge the original jurisdiction of the Court beyond that which the Constitution specified? The decision of the Court was no; Congress could not do so because the Court, like the other branches of government, was limited to the powers given it by the Constitution. The section of the statute that expanded the Court's original jurisdiction was declared unconstitutional.

Marshall wrote the opinion that explained the Court's decision. It was a powerful statement of the supremacy of the Constitution. Of almost equal importance, Marshall asserted that it is the special responsibility of the courts to decide whether a statute is or is not in harmony with the Constitution. The United States Supreme Court is the highest court in the nation; Marshall's opinion defined the unique authority of the independent American judiciary.

Hundreds of cases come before the Court every year, but it has seldom declared that laws passed by Congress are unconstitutional. Yet the power to do so makes the judicial branch equal to the legislative and executive branches of government.

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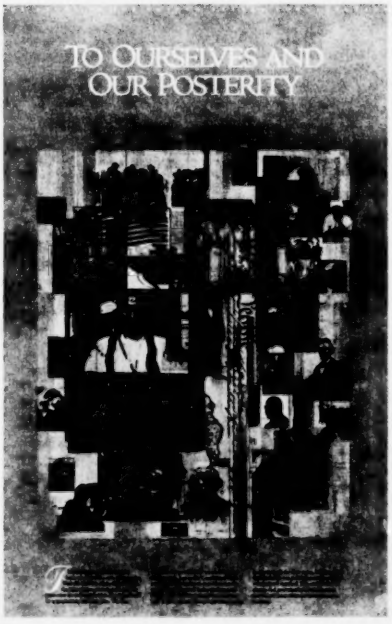
POSTER NO. 12

TO OURSELVES AND OUR POSTERITY

The collage on this poster expresses the diversity of the American national experience as we now celebrate the Bicentennial of the Constitution. The Preamble of the Constitution, which contains the title of this poster, is a statement of the purposes for which the Constitution was written. Some of those purposes were accomplished in the early years of the nation. Some have yet to be fully realized, because the Constitution is more than a fixed framework of government. It is a living document which calls upon every generation of Americans to achieve the goals it sets forth. The words of the Preamble illuminate our history and remind us of the challenges and the opportunities that still remain.

The Preamble begins with the phrase "WE, THE PEOPLE OF THE UNITED STATES." Many of these people are pictured on this collage. It shows that America is a nation of immigrants and that it has a population of unparalleled diversity. The ancestors of the Native American who appears prominently on this poster came to the North American continent thousands of years before the first European settlers. Those first native Americans made it possible for the earliest Spanish, English, Dutch, and French colonists to survive in what was once a forbidding wilderness. The colonists, in turn, prepared the way for people of many other nations. From the beginning, America was more diverse than other western countries. This diversity of the American people has enriched and expanded the nation. The artist who created this collage has illustrated the inclusive quality of the words *"We, the People of the United States."*



IN ORDER TO FORM A MORE PERFECT UNION . . . The members of the Constitutional Convention met in Philadelphia "in order to form a more perfect union." From their own observations and experiences they recognized the problems of governance under the Articles of Confederation. Together, they had the uncommon political wisdom to improve upon them. They also provided an amendment procedure that made it possible for later generations to adapt their document to changing times.

ESTABLISH JUSTICE . . . Even a truly perfect union would be only a hollow shell if it did not provide justice for the people within its jurisdiction. Like some of the other purposes of the Constitution, this goal has yet to be fully realized. Thoughtful people recognize that the quality of justice must be measured not only by the decisions announced in the marbled home of the United States Supreme Court, but also by the fairness and equity that are available to the poorest, least educated, and most humble people in the land. The number of times Americans seek a solution to their problems in courts of law provides evidence that Americans are confident that they will find justice in their courts. The American people believe deeply in the rule of law and in the principle inherited from the English Magna Carta of 1215 that no person, not even the most prominent, is above the law. Their goal is to achieve *equal justice under law*, the motto that adorns the front pediment of the Supreme Court Building.

INSURE DOMESTIC TRANQUILITY . . . It has often been difficult to insure domestic tranquility because Americans are descended from people who were notably individualistic and determined, and because the First Amendment to the Constitution guarantees free expression of competing ideas.

The founders believed that allowing orderly participation in government would make disorder less likely. When the founders wrote the Constitution in 1787, the only people who had the right to participate in political affairs were free men, most of them white. Out of the Civil War (1861–1865), the bitterest and bloodiest war in American history, emerged the legacy of the three amendments: the Thirteenth Amendment (1865),

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which ended slavery; the Fourteenth Amendment (1868), which defined as citizens all who were born in the United States, and which provided due process and equal protection of the laws to all; and the Fifteenth Amendment (1870), which in principle guaranteed the right to vote to all men.

Yet many other people were still denied suffrage. Women were not guaranteed the right to vote until the Nineteenth Amendment was ratified in 1920, and Native Americans did not become full voting citizens until passage of a federal statute in 1924. Two other amendments further broadened the electorate: the Twenty-fourth Amendment (1964) prohibited poll taxes (which had often prevented poor people from voting), and the Twenty-sixth Amendment (1971) extended the franchise to all citizens who are eighteen years of age or older.

Other laws and court decisions have implemented these legal and constitutional provisions so that the right to vote—and the right to have every person's vote counted equally—is now well established. Unlike the people of many other nations, Americans can achieve change through the ballot box and do not have to resort to violence. Broadening the electorate to include every United States citizen is perhaps the most effective way to insure domestic tranquility.

PROVIDE FOR THE COMMON DEFENSE . . . From George Washington's time to our own, providing for the common defense has often been the government's most expensive obligation. It provides the uniforms, equipment and weaponry not only for the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, and the United States Coast Guard, but also for the states' units of the National Guard, which are the successors of the citizen "militia" described in Article I. The men and women who serve in the armed forces protect the United States and, in the twentieth century, have protected and liberated the people of other nations as well. Those who died in their nation's service hallow the ground of cemeteries in many faraway places.

America is also protected by a series of treaties with other countries. Treaties, like the Constitution and federal laws, constitute the supreme law of the land. That supremacy reflects a national commitment to achieving and maintaining peace throughout the world.

PROMOTE THE GENERAL WELFARE . . . It is the responsibility of every government to promote the general welfare of its people. In the United States, this obligation takes many forms, ranging from social security, farm support programs, and laws that assure job safety and protect consumers from impure food and medication to various kinds of assistance designed to help those who cannot adequately help themselves. Many of these programs are implemented in conjunction with the states, thus constituting a cooperative, modern aspect of federalism.

AND SECURE THE BLESSINGS OF LIBERTY TO OURSELVES AND OUR POSTERITY . . . The posters in this series illustrate many of the ways that the Constitution was designed to achieve the ideals that Jefferson expressed in the Declaration of Independence: "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness. That, to secure these rights, Governments are instituted among Men, deriving their just Powers from the consent of the governed." Through discussion and sometimes dispute, Federalists and Anti-Federalists together created a Constitution and a Bill of Rights that are durable yet resilient, energetic yet restrained.

No other country in the world lives under a two-hundred-year-old written Constitution; no other political document has been more admired. Yet some of the promise embodied in its language is not yet fully realized. As we enter the third century of government under its aegis, we owe it to ourselves and to our posterity to make more secure the blessings of liberty for all the people of the United States.

PREAMBLE

WE THE PEOPLE of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

CHRONOLOGY OF BICENTENNIAL DATES

After the Continental Congress voted in favor of independence from Great Britain on July 2, 1776, and adopted the Declaration of Independence on July 4, it took up the proposal of Richard Henry Lee for a "plan of confederation." On July 12, 1776, a congressional committee presented "Articles of Confederation and Perpetual Union," which the Congress debated for more than a year. The body adopted the Articles of Confederation on November 15, 1777, and submitted them to the thirteen states for ratification, which had to be unanimous. By March 1, 1781, all the states had given their assent. The Articles of Confederation gave limited powers to the federal government; important decisions required a super-majority of nine states. Congress could declare war and compact peace but could not levy taxes, or regulate trade between the states or between any state and a foreign country. All amendments had to be adopted without dissenting votes. In 1786, James Madison described the Articles as "nothing more than a treaty of amity and of alliance between independent and sovereign states." As attempts to amend the Articles proved fruitless, and interstate disputes over commercial matters multiplied, the weaknesses of the Articles of Confederation as a fundamental charter became apparent. The march toward a new form of government began.

September 3, 1783: Articles of Peace ending hostilities between Great Britain and the United States are signed in Paris.

November 25, 1783: British troops evacuate New York City.

FROM THE END OF THE AMERICAN REVOLUTION TO THE RATIFICATION OF THE BILL OF RIGHTS

December 23, 1783: George Washington resigns his commission as commander-in-chief of American forces and takes leave "of all the employments of public life."

March 25-28, 1785: MOUNT VERNON CONFERENCE. George Washington hosts a meeting at Mount Vernon of four commissioners from Maryland and four from Virginia to discuss problems relating to the navigation of the Chesapeake Bay and the Potomac River. After negotiating agreements, the commissioners recommend to their respective legislatures that annual conferences be held on commercial matters and that Pennsylvania be invited to join Maryland and Virginia to discuss linking the Chesapeake Bay and the Ohio River.

January 16, 1786: Virginia's legislature adopts a statute for religious freedom, originally drafted by Thomas Jefferson and introduced by James Madison. The measure protects Virginia's citizens against compulsion to attend or support any church and against discrimination based upon religious belief. The law serves as a model for the First Amendment to the United States Constitution.

January 21, 1786: Virginia's legislature invites all the states to a September meeting in Annapolis to discuss commercial problems.

August 7, 1786: The Congress of the Confederation considers a motion offered by Charles Pinckney of South Carolina to amend the Articles of Confederation in order to give Congress more control over foreign affairs and interstate commerce. Because amendments to the Articles require the unanimous consent of the states, an unlikely eventuality, Congress declines to recommend the change.

September 11-14, 1786: ANNAPOLIS CONVENTION. New York, New Jersey, Delaware, Pennsylvania and Virginia send a total of twelve delegates to the conference which had been proposed by Virginia in January to discuss commercial matters. (New Hampshire, Massachusetts, Rhode Island and North Carolina send delegates but they fail to arrive in time.) The small attendance makes discussion of commercial matters fruitless. On September 14, the convention adopts a resolution drafted by Alexander Hamilton asking all the states to send representatives to a new convention to be held in Philadelphia in May of 1787. This meeting will not be limited to commercial matters but will address all issues necessary "to render the constitution of the Federal Government adequate to the exigencies of the Union."

February 4, 1787: THE END OF SHAYS' REBELLION. General Benjamin Lincoln, leading a contingent of 4,400 soldiers enlisted by the Massachusetts governor, routs the forces of Daniel Shays. A destitute farmer, Shays had organized a rebellion against the Massachusetts government, which had failed to take action to assist the state's depressed farm population. The uprisings, which had begun in the

summer of 1786, are completely crushed by the end of February. The Massachusetts legislature, however, enacts some statutes to assist debt-ridden farmers. The disorder fuels concern about the need for an effective central government.

February 21, 1787: The Congress of the Confederation cautiously endorses the plan adopted at the Annapolis Convention for a new meeting of delegates from the states "for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein."

May 25, 1787: OPENING OF THE CONSTITUTIONAL CONVENTION. On May 25, a quorum of delegates from seven states arrives in Philadelphia in response to the call from the Annapolis Convention, and the meeting convenes. Ultimately, representatives from all the states but Rhode Island attend. Of the 55 participants, over half are lawyers, and 29 have attended college. The distinguished public figures include George Washington, James Madison, Benjamin Franklin, George Mason, Gouverneur Morris, James Wilson, Roger Sherman and Elbridge Gerry.

May 29, 1787: VIRGINIA PLAN PROPOSED. On the fifth day of the meeting, Edmund Randolph, a delegate from Virginia, offers 15 resolutions making up the "Virginia Plan" of Union. Rather than amending the Articles of Confederation, the proposal describes a completely new organization of government, including a bicameral legislature which represents the states proportionately, with the lower house elected by the people and the upper house chosen by the lower body from nominees proposed by the state legislatures; an executive chosen by the legislature; a judiciary branch; and a council composed of the executive and members of the judiciary branch with a veto over legislative enactments.

June 15, 1787: NEW JERSEY PLAN PROPOSED. Displeased by Randolph's plan which placed the smaller states in a disadvantaged position, William Patterson proposes instead only to modify the Articles of Confederation. The New Jersey plan gives Congress power to tax and to regulate foreign and interstate commerce and establishes a plural executive (without veto power) and a supreme court.

June 19, 1787: After debating all the proposals, the Convention decides not merely to amend the Articles of Confederation but to devise a new national government. The question of equal versus proportional representation by states in the legislature now becomes the focus of the debate.

June 21, 1787: The Convention adopts a two-year term for representatives.

June 26, 1787: The Convention adopts a six-year term for Senators.

July 12, 1787: THE CONNECTICUT COMPROMISE (I). Based upon a proposal made by Roger Sherman of Connecticut, the Constitutional Convention agrees that representation in the lower house should be proportional to a state's population (the total of free residents, "excluding Indians not taxed," and three-fifths of "all other persons," i.e., slaves).

July 13, 1787: NORTHWEST ORDINANCE. While the Constitutional Convention meets in Philadelphia, the Congress of the Confederation crafts another governing instrument for the territory north of the Ohio River. The Northwest Ordinance, written largely by Nathan Dane of Massachusetts, provides for interim governance of the territory by congressional appointees (a governor, secretary and three judges), the creation of a bicameral legislature when there are 5,000 free males in the territory, and, ultimately, the establishment of three to five states on an equal footing with the states already in existence. Freedom of worship, right to trial by jury, and public education are guaranteed, and slavery prohibited.

July 16, 1787: THE CONNECTICUT COMPROMISE (II). The Convention agrees that each state should be represented equally in the upper chamber.

August 6, 1787: The five-man committee appointed to draft a constitution based upon 23 "fundamental resolutions" drawn up by the convention between July 19 and July 26 submits its document which contains 23 articles.

August 6-September 10, 1787: THE GREAT DEBATE. The Convention debates the draft constitution.

August 16, 1787: The Convention grants to Congress the right to regulate foreign trade and interstate commerce.

August 25, 1787: The Convention agrees to prohibit Congress from banning the foreign slave trade for twenty years.

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August 29, 1787: The Convention agrees to the fugitive slave clause.

September 6, 1787: The Convention adopts a four-year term for the president.

September 8, 1787: A five-man committee, comprising William Samuel Johnson (chair), Alexander Hamilton, James Madison, Rufus King and Gouverneur Morris, is appointed to prepare the final draft.

September 12, 1787: The committee submits the draft, written primarily by Gouverneur Morris, to the Convention.

September 13-15, 1787: The Convention examines the draft clause by clause and makes a few changes.

September 17, 1787: All twelve state delegations vote approval of the document. Thirty-nine of the forty-two delegates present sign the engrossed copy, and a letter of transmittal to Congress is drafted. The Convention formally adjourns.

September 20, 1787: Congress receives the proposed Constitution.

September 26-27, 1787: Some representatives seek to have Congress censure the Convention for failing to abide by Congress' instruction only to revise the Articles of Confederation.

September 28, 1787: Congress resolves to submit the Constitution to special state ratifying conventions. Article VII of the document stipulates that it will become effective when ratified by nine states.

October 27, 1787: The first *Federalist* paper appears in New York City newspapers, one of 85 to argue in favor of the adoption of the new frame of government. Written by Alexander Hamilton, James Madison and John Jay, the essays attempt to counter the arguments of Anti-Federalists, who fear a strong centralized national government.

December 7, 1787: Delaware ratifies the Constitution, the first state to do so, by unanimous vote.

December 12, 1787: Pennsylvania ratifies the Constitution in the face of considerable opposition. The vote in convention is 46 to 23.

December 18, 1787: New Jersey ratifies unanimously.

January 2, 1788: Georgia ratifies unanimously.

January 9, 1788: Connecticut ratifies by a vote of 128 to 40.

February 6, 1788: The Massachusetts convention ratifies by a close vote of 187 to 168, after vigorous debate. Many Anti-Federalists, including Sam Adams, change sides after Federalists propose nine amendments, including one which would reserve to the states all powers not delegated to the national government by the Constitution.

March 24, 1788: Rhode Island, which had refused to send delegates to the Constitutional Convention, declines to call a state convention and holds a popular referendum instead. Federalists do not participate, and the voters reject the Constitution, 2708 to 237.

April 28, 1788: Maryland ratifies by a vote of 63 to 11.

May 23, 1788: South Carolina ratifies by a vote of 149 to 73.

June 21, 1788: New Hampshire becomes the ninth state to ratify, by a vote of 57 to 47. The convention proposes twelve amendments.

June 25, 1788: Despite strong opposition led by Patrick Henry, Virginia ratifies the Constitution by 89 to 79. James Madison leads the fight in favor. The convention recommends a bill of rights, composed of twenty articles, in addition to twenty further changes.

July 2, 1788: The President of Congress, Cyrus Griffin of Virginia, announces that the Constitution has been ratified by the requisite nine states. A committee is appointed to prepare for the change in government.

July 26, 1788: New York ratifies by vote of 30 to 27 after Alexander Hamilton delays action, hoping that news of ratification from New Hampshire and Virginia would diminish Anti-Federalist sentiment.

August 2, 1788: North Carolina declines to ratify until the addition to the Constitution of a bill of rights.

September 13, 1788: Congress selects New York as the site of the new government and chooses dates for the appointment of and balloting by presidential electors, and for the meeting of the first Congress under the Constitution.

September 30, 1788: Pennsylvania chooses its two senators, Robert Morris and William Maclay, the first state to do so. Elections of senators and representatives continue through August 31, 1790, when Rhode Island concludes its elections.

October 10, 1788: The Congress of the Confederation transacts its last official business.

January 7, 1789: Presidential electors are chosen by ten of the states that have ratified the Constitution (all but New York).

February 4, 1789: Presidential electors vote; George Washington is chosen as president, and John Adams as vice-president.

March 4, 1789: The first Congress convenes in New York, with eight senators and thirteen representatives in attendance, and the remainder en route.

April 1, 1789: The House of Representatives, with 30 of its 59 members present, elects Frederick A. Muhlenberg of Pennsylvania to be its speaker.

April 6, 1789: The Senate, with 9 of 22 senators in attendance, chooses John Langdon of New Hampshire as temporary presiding officer.

April 30, 1789: George Washington is inaugurated as the nation's first president under the Constitution. The oath of office is administered by Robert R. Livingston, chancellor of the State of New York, on the balcony of Federal Hall, at the corner of Wall and Broad Streets in New York City.

July 27, 1789: Congress establishes the Department of Foreign Affairs (later changed to Department of State).

August 7, 1789: Congress establishes the War Department.

September 2, 1789: Congress establishes the Treasury Department.

September 22, 1789: Congress creates the office of Postmaster General.

September 24, 1789: Congress passes the Federal Judiciary Act, which provides for a chief justice and five associate justices of the Supreme Court and which establishes three circuit courts and thirteen district courts. It also creates the office of the Attorney General.

September 25, 1789: Congress submits to the states twelve amendments to the Constitution, in response to the five state ratifying conventions that had emphasized the need for immediate changes.

November 20, 1789: New Jersey ratifies ten of the twelve amendments, the Bill of Rights, the first state to do so.

November 21, 1789: As a result of congressional action to amend the Constitution, North Carolina ratifies the original document, by a vote of 194 to 77.

December 19, 1789: Maryland ratifies the Bill of Rights.

December 22, 1789: North Carolina ratifies the Bill of Rights.

January 25, 1790: New Hampshire ratifies the Bill of Rights.

January 28, 1790: Delaware ratifies the Bill of Rights.

February 24, 1790: New York ratifies the Bill of Rights.

March 10, 1790: Pennsylvania ratifies the Bill of Rights.

May 29, 1790: Rhode Island ratifies the Constitution, by a vote of 34 to 32.

June 7, 1790: Rhode Island ratifies the Bill of Rights.

July 16, 1790: George Washington signs legislation selecting the District of Columbia as the permanent national capital, to be occupied in 1800. Philadelphia will house the government in the intervening decade.

December 6, 1790: All three branches of government assemble in Philadelphia.

January 10, 1791: Vermont ratifies the Constitution.

March 4, 1791: Vermont is admitted to the Union as the fourteenth state.

November 3, 1791: Vermont ratifies the Bill of Rights.

December 15, 1791: Virginia ratifies the Bill of Rights, making it part of the United States Constitution.

Three of the original thirteen states did not ratify the Bill of Rights until the 150th anniversary of its submission to the states. Massachusetts ratified on March 2, 1939; Georgia on March 18, 1939; and Connecticut on April 19, 1939.

Principal Sources: Richard B. Morris, ed., *Encyclopedia of American History* (New York: Harper & Row, 1976); Samuel Eliot Morison, *The Oxford History of the American People* (New York: Oxford University Press, 1965).

THE ARTICLES OF CONFEDERATION

To all to whom these presents shall come, we the undersigned delegates of the states affixed to our names send greeting. WHEREAS the delegates of the United States of America in Congress assembled did on the fifteenth day of November in the year of our Lord One Thousand Seven Hundred and Seventy-seven, and in the second year of the independence of America, agree to certain articles of confederation and perpetual union between the states of New-hampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia in the words following, viz.

"Articles of confederation and perpetual union between the states of New-hampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia.

ARTICLE 1

The stile of this confederacy shall be "The United States of America."

ARTICLE 2

Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

ARTICLE 3

The said states hereby severally enter into a firm league of friendship with each other for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ARTICLE 4

The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states—paupers, vagabonds, and fugitives from justice excepted—shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state, to any other state of which the owner is an inhabitant; provided also that no imposition, duties, or restriction shall be laid by any state on the property of the United States, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any state shall flee from justice, and be found in any of the United States, he shall upon demand of the governor or executive power of the state from which he fled be delivered up and removed to the state having jurisdiction of his offense.

Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

ARTICLE 5

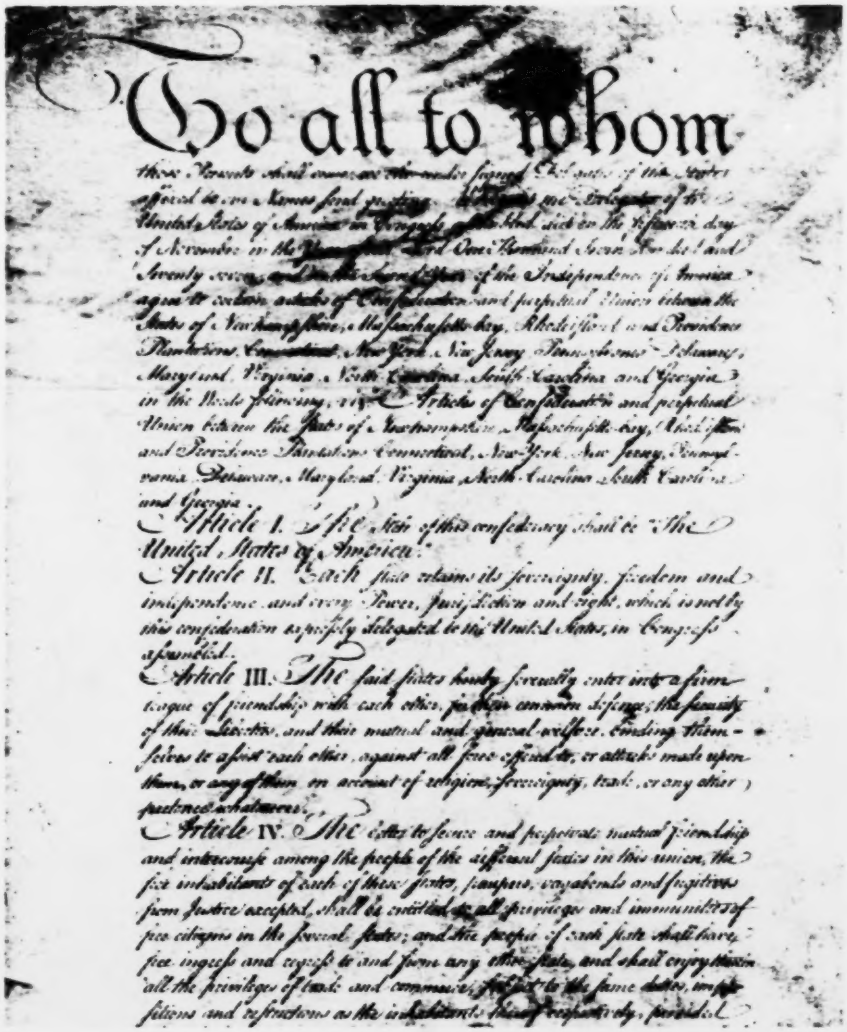
For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each state to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No state sh.. be represented in Congress by les han two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person being a delegate, be capable of holding any office under the United States for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the United States in Congress assembled, each state shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court, or place out of Congress, and the members of Congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.



To all to whom

these Presents shall come we the under signed Delegates of the States

affixed to our Names send greeting Whereas the Delegates of the

United States of America in Congress assembled did on the fifteenth day

of November in the Year of our Lord One Thousand Seven hundred and

Seventy seven and in the second Year of the Independence of America

agree to certain articles of Confederation and perpetual Union between the

States of New Hampshire, Massachusetts bay, Rhode Island and Providence

Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware,

Maryland, Virginia, North Carolina, South Carolina and Georgia

in the Words following, viz. Articles of Confederation and perpetual

Union between the States of New Hampshire, Massachusetts bay, Rhode Island

and Providence Plantations, Connecticut, New York, New Jersey, Pennsyl-

vania, Delaware, Maryland, Virginia, North Carolina, South Carolina

and Georgia.

Article I. The Stile of this confederacy shall be "The

United States of America."

Article II. Each state retains its sovereignty, freedom and

independence, and every Power, Jurisdiction and right, which is not by

this confederation expressly delegated to the United States, in Congress

assembled.

Article III. The said States hereby severally enter into a firm

league of friendship with each other, for their common defence, the security

of their Liberties, and their mutual and general welfare, binding them-

selves to assist each other, against all force offered to, or attacks made upon

them, or any of them, on account of religion, sovereignty, trade, or any other

pretence whatever.

Article IV. The better to secure and perpetuate mutual friendship

and intercourse among the people of the different states in this union, the

free inhabitants of each of these states, paupers, vagabonds and fugitives

from justice excepted, shall be entitled to all privileges and immunities of

free citizens in the several states; and the people of each state shall have

free ingress and regress to and from any other state, and shall enjoy therein

all the privileges of trade and commerce, subject to the same duties, impo-

sitions and restrictions as the inhabitants thereof respectively, provided

Articles of Confederation (first page). National Archives.

ARTICLE 6

No state without the consent of the United States in Congress assembled shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, or alliance or treaty with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation, or alliance whatever between them without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary by the United States in Congress assembled, for the defense of such state, or its trade; nor shall any body of forces be kept up by any state in time of peace, except such number only as in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such state; but every state shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No state shall engage in any war without the consent of the United States in Congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted: nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

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ARTICLE 7

When land-forces are raised by any state for the common defense, all officers of or under the rank of colonel shall be appointed by the legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

ARTICLE 8

All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all land within each state, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled shall from time to time direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the United States in Congress assembled.

ARTICLE 9

The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—[of] entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—[of] appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following:

Whenever the legislative or executive authority or lawful agent of any state in controversy with another shall present a petition to Congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall in the presence of Congress be drawn out by lot, and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges to hear and finally determine the controversy; so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each state, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear to defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to Congress and lodged among the acts of Congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried, "well and truly to hear and determine the matter in

question, according to the best of his judgment, without favor, affection, or hope of reward": provided also that no state shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdiction as they may respect such lands, and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party on the Congress of the United States, be finally determined as near as may be in the same manner as before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective tests—fixing the standard of weights and measures throughout the United States—regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated—establishing and regulating post offices from one state to another throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office—appointing all officers of the land forces in the service of the United States, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States—making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee to sit in the recess of Congress, to be denominated a "Committee of the States," and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses—to borrow money or emit bills on the credit of the United States, transmitting every half-year to the respective states an account of the sums of money so borrowed or emitted—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each state for its quota in proportion to the number of white inhabitants in each state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner at the expense of the United States, and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled: but if the United States in Congress assembled shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number of men than the quota thereof, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such state unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared. And the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, nor the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine states assent to the same: nor shall a question on any other point, except for adjourning from day to day, be determined unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment

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be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

ARTICLE 10

The committee of the states, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee for the exercise of which, by the Articles of Confederation, the voice of nine states in the Congress of the United States assembled is requisite.

ARTICLE 11

Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this union: but no other colony shall be admitted into the same unless such admission be agreed to by nine states.

ARTICLE 12

All bills of credit emitted, monies borrowed, and debts contracted by, or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ARTICLE 13

Every state shall abide by the determinations of the United States in Congress assembled on all questions which, by this confederation, are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterward confirmed by the legislatures of every state.

AND WHEREAS, It hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in Congress to approve of, and to authorize us to ratify, the said Articles of Confederation and perpetual union: KNOW YE, That we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual union, and all and singular the matters and things therein contained: and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions which, by the said confederation, are submitted to them. And that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual. In witness whereof we have hereunto set our hands in Congress.

Done at Philadelphia in the State of Pennsylvania the ninth day of July in the year of our Lord One Thousand Seven Hundred and Seventy-eight, and in the third year of the independence of America.

THE CONSTITUTION OF THE UNITED STATES OF AMERICA

PREAMBLE

WE THE PEOPLE of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE ONE

SECTION ONE

Legislative Power

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION TWO

House of Representatives, How Constituted Power of Impeachment

1. The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for the electors of the most numerous branch of the state legislature.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

3. [Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.][1] The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each state shall have at least one Representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECTION THREE

The Senate, How Constituted

1. [The Senate of the United States shall be composed of two Senators from each state, chosen by the legislature thereof, for six years; and each Senator shall have one vote.][2]

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; [and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies].[2]

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

4. The Vice-President of the United States shall be president of the Senate, but shall have no vote unless they be equally divided.

5. The Senate shall choose their other officers, and also a president pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and dis-

[1] Changed by the Fourteenth Amendment.
[2] Changed by the Seventeenth Amendment.

qualification to hold and enjoy any office of honor, trust, or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

SECTION FOUR

Election of Senators and Representatives

1. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each state by the legislature thereof, but the Congress may at any time by law make or alter such regulations except as to the places of choosing Senators.

2. [The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.][3]

SECTION FIVE

Powers, Quorum, Journals, Meetings, Adjournments

1. Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION SIX

Compensation, Privileges, Disabilites

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

SECTION SEVEN

Procedure in Passing Bills, Orders, and Resolutions

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

[3] Changed by the Twentieth Amendment.

SECTION EIGHT
Power of Congress

The Congress shall have power:

1. To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post offices and post roads;

8. To promote the progress of science and useful arts, by securing for limited time to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years,

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings;—and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

SECTION NINE
Limitations upon Powers of Congress

1. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or ex post facto law shall be passed.

4. [No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.][4]

5. No tax or duty shall be laid on articles exported from any state.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state, be obliged to enter clear, or pay duties in another.

7. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever from any king, prince, or foreign state.

SECTION TEN
Restrictions upon Powers of States

1. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

[4] Changed by the Sixteenth Amendment.

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2. No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No state shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE TWO

SECTION ONE

Executive Powers, Electors, Qualifications of the President

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during a term of four years, and, together with the Vice-President, chosen for the same term, be elected, as follows:

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the state may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. [The Electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.][5]

[5] Changed by the Twelfth Amendment.

4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

5. No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

7. The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

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SECTION TWO
Powers and Duties of the President

1. The President shall be Commander in Chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECTION THREE
Powers and Duties of the President

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION FOUR
Forfeiture of Offices for Crimes

The President, Vice-President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE THREE

SECTION ONE
Judicial Powers, Tenure of Office

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION TWO
Cases to Which Judicial Power Extends

1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more states;[—between a state and citizens of another state;—][6] between citizens of different states;—between citizens of the same state claiming lands under grants of different states, and [between a state, or the citizens thereof, and foreign states, citizens or subjects].[6]

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

SECTION THREE
Treason, Proof, and Punishment

1. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

[6] Changed by the Eleventh Amendment.

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2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

ARTICLE FOUR

SECTION ONE

Faith and Credit among States

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECTION TWO

Surrender of Fugitives

1. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

2. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state, from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

3. No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION THREE

Admission of New States

1. New states may be admitted by the Congress into this Union, but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulation respecting the territory or other property belonging to the United States, and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SECTION FOUR

Guarantee of Republican Government

The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE FIVE

AMENDMENT TO THE CONSTITUTION

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE SIX

MISCELLANEOUS PROVISIONS

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be valid against the United States under this Constitution, as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office of public trust under the United States.

ARTICLE SEVEN

Ratification and Establishment

The ratification of the conventions of nine states, shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

AMENDMENTS

Since 1787, twenty-six amendments have been proposed by the Congress and ratified by the several states*, pursuant to the fifth Article of the original Constitution.

ARTICLE I[1]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

ARTICLE III

No Soldier shall, in time of peace be quartered in any house without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

ARTICLE VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

ARTICLE IX

The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI[2]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

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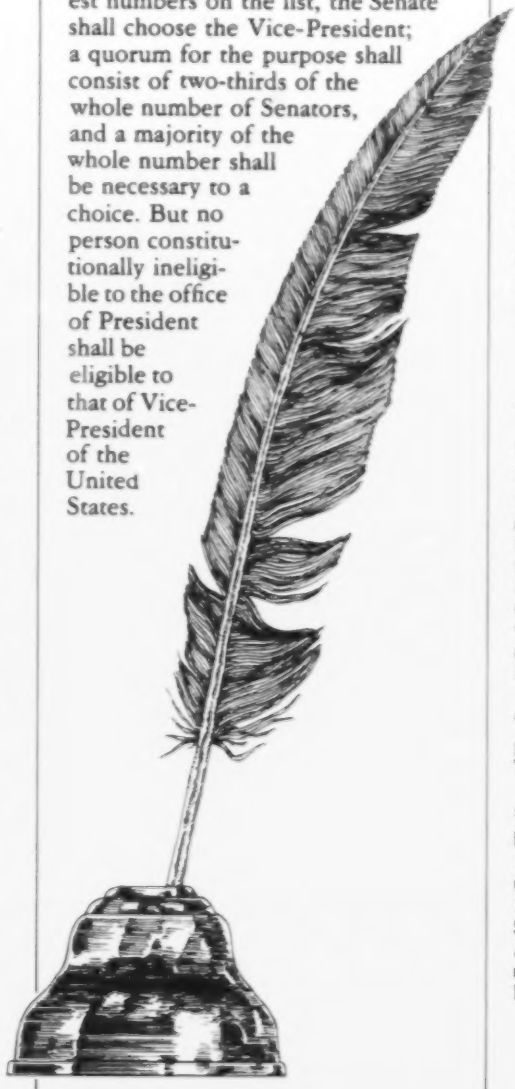
* All the amendments except the Twenty-first Amendment were ratified by State Legislatures. The Twenty-first Amendment, by its terms, was ratified by "conventions in the several States." Only the Thirteenth, Fourteenth, Fifteenth, and Sixteenth Amendments had numbers assigned to them at the time of ratification.

[1]The first ten amendments (termed "articles"), together with two others that failed of ratification, were proposed to the several States by resolution of Congress on September 25, 1789. The ratifications were transmitted by the Governors to the President and by him communicated to Congress from time to time. The first ten amendments were ratified by eleven of the fourteen States. Virginia completed the required three-fourths by ratification on December 15, 1791, and its action was communicated to Congress by the President on December 30, 1791. The legislatures of Massachusetts, Georgia, and Connecticut ratified them on March 2, 1939, March 18, 1939, and April 19, 1939, respectively.

[2]The Eleventh Amendment was proposed by resolution of Congress on March 4, 1794. It was declared by the President, in a message to Congress dated January 8, 1798, to have been ratified by three-fourths of the several States. Records of the National Archives show that the Eleventh Amendment was ratified by thirteen of the fifteen States. It was not ratified by New Jersey or Pennsylvania.

ARTICLE XII[3]

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person having such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. [And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.][4] The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.



ARTICLE XIII[5]

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV[6]

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall

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[3]The Twelfth Amendment was proposed in lieu of the original third paragraph of section 1 of Article Two, by resolution of Congress on December 9, 1803. It was declared in a proclamation of the Secretary of State, dated September 25, 1804, to have been ratified by three-fourths of the States. Records of the National Archives show that it was ratified by fourteen of seventeen States and rejected by Connecticut, Delaware, and Massachusetts.

[4]The part enclosed by brackets has been superseded by section 3 of Amendment Twenty.

[5]The Thirteenth Amendment was proposed by resolution of Congress on January 31, 1865. It was declared in a proclamation of the Secretary of State, dated December 18, 1865, to have been ratified by twenty-seven States. Subsequent records of the National Archives show that the Thirteenth Amendment was ratified by eight additional States. It was rejected by Mississippi.

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any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV[7]

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI[8]

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

ARTICLE XVII[9]

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State

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[6]The Fourteenth Amendment was proposed by resolution of Congress on June 13, 1866. By a concurrent resolution of Congress adopted July 21, 1868, it was declared to have been ratified by "three-fourths and more of the several States of the Union", and the Secretary of State was required duly to promulgate the amendment as a part of the Constitution. He accordingly issued a proclamation, dated July 28, 1868, declaring the amendment to have been ratified by twenty-eight States, "being more than three-fourths." Records of the National Archives show that the Fourteenth Amendment was subsequently ratified by nine additional States.

[7]The Fifteenth Amendment was proposed by resolution of Congress on February 26, 1869. It was declared in a proclamation of the Secretary of State, dated March 30, 1870, to have been ratified by twenty-nine States, which "constitute three-fourths." Records of the National Archives show that the Fifteenth Amendment was subsequently ratified by six more of the States. It was rejected by Tennessee.

[8]The Sixteenth Amendment was proposed by resolution of Congress on July 12, 1909. It was declared in a proclamation of the Secretary of State, dated February 25, 1913, to have been ratified by thirty-six States, which "constitute three-fourths." Subsequent records of the National Archives show that the Sixteenth Amendment was ratified by two additional States. It was rejected by Connecticut, Rhode Island, and Utah.

[9]The Seventeenth Amendment was proposed by resolution of Congress on May 13, 1912. It was declared in a proclamation of the Secretary of State, dated May 31, 1913, to have been ratified by thirty-six States, which "constitute three-fourths." Records of the National Archives show that the Seventeenth Amendment was subsequently ratified by one additional State. It was rejected by Utah.

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may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

ARTICLE XVIII[10]

[Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

[Sec. 2. The Congress and the Several States shall have concurrent power to enforce this article by appropriate legislation.

[Sec. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.]

ARTICLE XIX[11]

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XX[12]

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Sec. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Sec. 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Sec. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Sec. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Sec. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

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[10]The Eighteenth Amendment was proposed by resolution of Congress on December 18, 1917. It was declared in a proclamation of the Acting Secretary of State, dated January 29, 1919, to have been ratified by thirty-six States, which "constitute three-fourths." Subsequent records of the National Archives show that the Eighteenth Amendment was ratified by nine additional States. It was rejected by Rhode Island. By its own terms the Eighteenth Amendment became effective one year after its ratification, which was consummated on January 16, 1919, and therefore went into effect on January 16, 1920.

Repeal of the Eighteenth Amendment on December 5, 1933, was proclaimed by the President in his proclamation of that date, when the ratification of the Twenty-first Amendment was certified by the Acting Secretary of State.

[11]The Nineteenth Amendment was proposed by resolution of Congress on June 4, 1919. It was declared in a proclamation of the Secretary of State, dated August 26, 1920, to have been ratified by thirty-six States, which "constitute three-fourths." Subsequent records of the National Archives show that the Nineteenth Amendment was ratified by twelve additional States.

[12]The Twentieth Amendment was proposed by resolution of Congress on March 2, 1932. It was declared in a proclamation of the Secretary of State, dated February 6, 1933, to have been ratified by thirty-nine States, which "constitute more than the requisite three-fourths." Subsequent records of the National Archives show that the Twentieth Amendment was ratified by all forty-eight States before sections 1 and 2 became effective on October 15, 1933. The other sections of the amendment became effective on January 23, 1933, when its ratification was consummated by three-fourths of the States.

ARTICLE XXI[13]

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Sec. 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Sec. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

ARTICLE XXII[14]

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Sec. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

ARTICLE XXIII[15]

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XXIV[16]

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

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[13]The Twenty-first Amendment was proposed by resolution of Congress on February 20, 1933. It was certified in a proclamation of the Acting Secretary of State dated December 5, 1933, to have been ratified by conventions of thirty-six States, which "constitute the requisite three-fourths of the whole number of States." Subsequent records of the National Archives show that the Twenty-first Amendment was ratified by two additional States. It was rejected by the convention of South Carolina. North Carolina voted against holding a convention.

[14]The Twenty-second Amendment was proposed by resolution of Congress on March 21, 1947. Ratification was completed on February 27, 1951, when the thirty-sixth State (Minnesota) approved the amendment. On March 1, 1951, the Administrator of General Services certified that "the States whose Legislatures have so ratified the said proposed Amendment constitute the requisite three-fourths of the whole number of States in the United States". Records of the National Archives show that the Twenty-second Amendment was subsequently ratified by five additional States. It was rejected by Oklahoma and Massachusetts.

[15]The Twenty-third Amendment was proposed by resolution of Congress on June 17, 1960. The Administrator of General Services certified the ratification and adoption of the amendment by three-fourths of the States on April 3, 1961. It was rejected by Arkansas.

[16]The Twenty-fourth Amendment was proposed by resolution of Congress on August 27, 1962. It was declared in a Proclamation of the Administrator of General Services dated February 4, 1964, to have been ratified by three-fourths of the States. It was rejected by the legislature of Mississippi on December 20, 1962.

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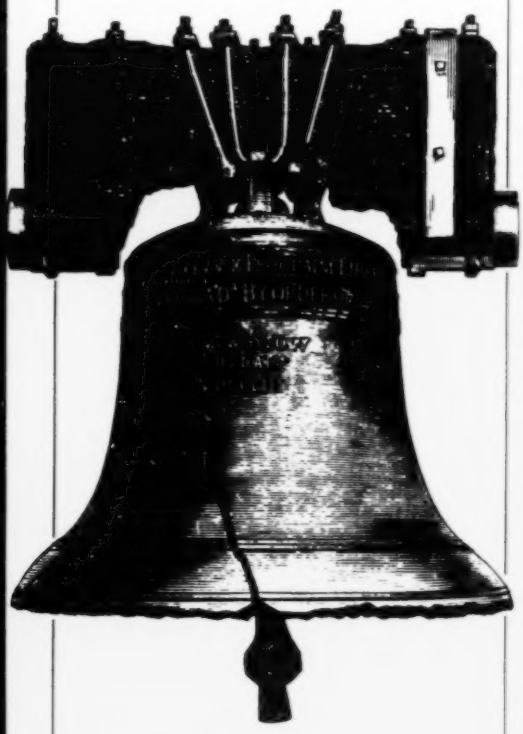
ARTICLE XXV[17]

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Sec. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.



Sec. 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Sec. 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

ARTICLE XXVI[18]

Sec. 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

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[17]The Twenty-fifth Amendment to the Constitution was proposed by the Congress on July 6, 1965. It was declared in a certificate of the Administrator of General Services, dated February 23, 1967, to have been ratified by the legislatures of thirty-eight of the fifty States. Ratification was completed on February 10, 1967.

[18]The Twenty-sixth Amendment was proposed by resolution of Congress on March 23, 1971. It was declared in a certificate of the Administrator of General Services, dated July 5, 1971, to have been ratified by the legislatures of thirty-nine of the fifty States. Ratification was completed on July 1, 1971.

Source: U.S. Congress. House. The Declaration of Independence and the Constitution of the United States of America. *H. Doc. 96-143, 96th Cong., 1st sess., 1979.*

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AN INTRODUCTORY BIBLIOGRAPHY TO AMERICAN CONSTITUTIONAL HISTORY

by Kermit L. Hall

Since its creation, the American Constitution has stimulated a steady stream of literature about both its history and operation. This bibliography is an introduction to that vast literature. It is selective in the true sense of the word. The numbers of books devoted to the Constitution run into the thousands; writings in history and political science journals and law reviews are even more extensive. This brief bibliography should nonetheless have value for teachers of American history and civics and the general reading public curious about our constitutional history. A fuller listing of the historical literature on the Constitution, especially that available in article form, can be found in Kermit L. Hall, comp., ***A Comprehensive Bibliography of American Constitutional and Legal History***, 5 vols. (Millwood, N.Y.: Kraus Thomson International, 1984).

CREATION OF THE CONSTITUTION AND THE FOUNDING

Bailyn, Bernard. ***The Ideological Origins of the American Revolution*** (Cambridge: Belknap Press of Harvard University Press, 1967).

A penetrating analysis of the ideas that shaped both the revolutionary era's politics and the development of a distinctive form of American constitutionalism. Bailyn identifies English republican writers as the chief source of American constitutional thought.

Becker, Carl L. ***The Declaration of Independence: A Study in the History of Political Ideas*** (New York: Alfred A. Knopf, 1956 [1st ed., 1922].)

An indispensable introduction to the text of the Declaration of Independence. Becker believed that the ideas of John Locke shaped not only the Declaration but the American Constitution, a position hotly disputed in Garry Wills, ***Inventing America: Jefferson's Declaration of Independence*** (Garden City, New York: Doubleday & Company, 1978). Wills contends that Locke counted for little and that the ideas of the Scottish Moral Enlightenment better explain the Declaration.

Bowen, Catherine Drinker. ***Miracle at Philadelphia: The Story of the Constitutional Convention, May to September 1787*** (Boston: Little, Brown & Co., 1966).

A highly readable and reliable account of the day-to-day events in the Constitutional Convention.

Brant, Irving. ***The Bill of Rights: Its Origin and Meaning*** (New York: New American Library, 1967 [paperback]; Indianapolis: Bobbs-Merrill, 1965 [hardback]).

A history of the Bill of Rights from its beginnings to the recent past. Brant, who was also the biographer of James Madison, offers valuable insights into the intellectual background of the founding era. On the politics of the Bill of Rights, a fascinating subject in its own right, see: Robert A. Rutland, ***The Birth of the Bill of Rights, 1776–1791*** (Chapel Hill: University of North Carolina Press, 1955).

Corwin, Edward D. ***The "Higher Law" Background of American Constitutional Law*** (Ithaca, N.Y.: Cornell University Press, 1955).

An eloquent introduction to the idea of the Constitution as "Higher Law." From the time of its first publication in the *Harvard Law Review* in 1929 this exploration of the remote sources of the American Constitution has been one of the most universally admired and heavily used essays in the history of constitutional law and political thought.

Levy, Leonard W. ed. ***Essays on the Making of the Constitution*** (New York: Oxford University Press, 1969).

A fascinating collection of some of the best writing on the political and social forces, as well as the philosophical notions, that shaped the Constitution. The essays range from Charles Beard's famous "economic" interpretation of the Convention to Stanley M. Elkins' and Eric McKitrick's provocative analysis of the relationship of the framers' youth to their continental vision.

McDonald, Forrest. ***We the People: The Economic Origins of the Constitution*** (Chicago: University of Chicago Press, Midway Reprint Series, 1976 [1st ed. 1958]).

The most convincing attack on the Beard thesis. McDonald shows that the framers operated under a complex set of motives and that the factions in the Constitutional Convention were a good deal more fluid than Beard had believed.

Morris, Richard B. ***Seven Who Shaped Our Destiny*** (New York: Harper & Row, Publishers, 1973).

A lively account of the most important figures in the revolutionary era and the creation of the Constitution. Biographical in nature, but filled with insights about the development of American attitudes toward liberty and authority.

Rakove, Jack N. ***The Beginnings of National Politics: An Interpretive History of the Continental***

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Congress (New York: Alfred A. Knopf, 1979).

A clearly written and forcefully argued account of why the Articles of Confederation eventually gave way to the Constitution. Certainly the best account of political activity leading to the calling of the Constitutional Convention.

Wood, Gordon S. ***The Creation of the American Republic, 1776–1787*** (New York: W. W. Norton, 1972 [1st ed., 1969]).

One of the most important books ever written about the Constitution. Wood stresses the inherent conservatism of the Federalists in writing the Constitution, and he also shows that they made a distinctive contribution to western political thought through republican ideology.

THE NINETEENTH CENTURY

Beth, Loren P. ***The American Constitution, 1877–1917*** (New York: Harper & Row, 1971).

A volume in the New American Nation Series, this book provides the single best synthesis of constitutional developments during these years. Beth, a political scientist, does particularly well at relating institutional developments to broad changes in constitutional policy-making by the Supreme Court.

Fehrenbacher, Don E. ***The Dred Scott Case; Its Significance in American Law and Politics*** (New York: Oxford University Press, 1978).

A brilliant examination of one of this nation's most famous constitutional law cases. This Pulitzer Prize-winning study probes the issues of slavery, the coming of the Civil War, and the meaning of judicial power in our constitutional order.

Hyman, Harold, and William Wiecek. ***Equal Justice Under Law: Constitutional Development 1835–1875*** (New York: Harper & Row, 1982).

A scholarly study filled with insights based on the most recent historical writing. The authors analyze extensively the Thirteenth, Fourteenth, and Fifteenth Amendments, and they argue provocatively that the significance of each must be understood in relationship to the others.

Levy, Leonard W. ***Legacy of Suppression: Freedom of Speech and Press in Early American History*** (Cambridge: Belknap Press of Harvard University Press, 1960).

A critical assessment of the early struggles over freedom of speech and press, particularly the attitudes which fueled the famous Alien and Sedition Acts. Levy gives low marks to the Jeffersonians as well as the Federalists on matters of civil liberties.

Newmyer, R. Kent. ***The Supreme Court under Marshall and Taney*** (New York: Crowell, 1968).

A readable synthesis of the work of the Marshall and Taney Courts which stresses their fundamental nationalism. It is also a good introduction to the basic workings of the Supreme Court.

Stites, Francis N. ***John Marshall: Defender of the Constitution*** (Boston: Little, Brown and Company, 1981).

A brief, highly readable account of the nation's greatest Supreme Court justice. It also provides an excellent sense of the interaction of law and politics in the early Republic.

THE TWENTIETH CENTURY

Carter, Dan T. ***Scottsboro: A Tragedy of the American South*** (Baton Rouge: Louisiana State University Press, 1979 [1st ed., 1969]).

A fascinating analysis of the famous Scottsboro, Alabama rape case and the problem of Southern racism during the 1930s. The book is especially important in relating the constitutional commitment to fair trial and the right to counsel in the context of super-heated social tensions.

Cortner, Richard C. ***The Supreme Court and the Second Bill of Rights*** (Madison, Wisconsin: The University of Wisconsin Press, 1981).

A systematic description of the nationalization of the Bill of Rights through decisions of the Supreme Court. Cortner explains how the Supreme Court interpreted the "due process" clause of the Fourteenth Amendment to mean that the Bill of Rights, originally a limitation only on the federal government, also protected individuals against state government action.

Kluger, Richard. ***Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality*** (New York: Vintage, 1977).

A fascinating account of the battle against segregated schools. Kluger starts with Reconstruction and ends with the civil rights turbulence of the 1960s. Particularly good in explaining the litigation strategy pursued by the NAACP's Legal Defense Fund in *Brown* and other civil rights cases.

Kutler, Stanley I. ***The American Inquisition: Justice and Injustice***

in the Cold War (New York: Hill and Wang, 1982).

A provocative yet balanced analysis of the interaction of anticommunism and constitutional values during the Cold War. Kutler draws expertly on case studies to drive home the personal and institutional consequences of political persecution.

Lewis, Anthony. ***Gideon's Trumpet*** (New York: Random House, 1964).

A highly readable account of the Supreme Court's 1962 landmark decision in *Gideon* v. *Wainwright*. The Court extended the right to counsel to the poor, and Lewis shows forcefully how human actors in the constitutional process contributed to the development of this important right.

Murphy, Paul L. ***The Constitution in Crisis Times, 1918–1969*** (New York: Harper & Row, 1972).

An historical overview of constitutional developments with emphasis given to their social and cultural roots. Murphy gives heavy, but not exclusive, attention to the emergence of civil liberties and civil rights.

GENERAL

Berger, Raoul. ***Government by Judiciary: The Transformation of the Fourteenth Amendment*** (Cambridge: Harvard University Press, 1977).

A trenchant attack on the Supreme Court's development of the Fourteenth Amendment. Berger throws darts at all of the twentieth-century liberal proponents of an activist judiciary. He hits the target often enough to make the book important, although flawed.

Bickel, Alexander M. ***The Least Dangerous Branch: The Supreme Court at the Bar of Politics*** (Indianapolis: Bobbs-Merrill Co. Inc., 1962).

A brief, forceful meditation on the relationship of the Supreme Court to the two other branches. Bickel carefully defines the limited role of judicial review in the American system while simultaneously arguing that the principled nature of American constitutionalism depends upon judicial power.

Burns, James MacGregor. ***The Deadlock of Democracy: Four Party Politics in America*** (Englewood Cliffs, N.J.: Prentice-Hall, 1963).

A penetrating discussion of the divisions within American political parties between their executive and legislative wings. Burns, one of the nation's foremost political scientists, brings a sharp analytical sense to the practical operation of parties in the American constitutional system.

Kelly, Alfred H., Winifred A. Harbison, and Herman Belz. ***The American Constitution: Its Origins and Development,*** 6th ed. (New York: W. W. Norton & Co., 1983 [1st ed., 1948]).

The 6th edition is newly revised and rewritten. It provides a sweeping and detailed examination of the development of American constitutionalism from its English origins to the present. It also contains an excellent annotated bibliography.

McCloskey, Robert G. ***The American Supreme Court*** (Chicago: University of Chicago Press, 1960).

A lucid account of the development of the Supreme Court and its power of judicial review. Although the book covers only the period through the 1950s, it remains perhaps the single best introduction to the history of the Court.

McLaughlin, Andrew C. ***The Foundations of American Constitutionalism.*** (New York: New York University Press, 1932).

A brief, lively analysis of the historical origins of the principle of constitutionalism. McLaughlin emphasizes the role of New Englanders in transforming seventeenth- and eighteenth-century ideas into workable frames of government.

Schlesinger, Arthur M., Jr. ***The Imperial Presidency*** (Boston: Houghton Mifflin, 1973).

A shrewd analysis of the growth of presidential power written from the perspective of Richard Nixon and the Watergate disaster. Schlesinger deftly blends the development of constitutional law with political drama and international relations.

White, G. Edward. ***The American Judicial Tradition: Profiles of Leading American Judges*** (New York: Oxford University Press, 1976).

White skillfully puts biography into the service of constitutional and legal history through an examination of the lives of the nation's most prominent judges. Its panoramic coverage provides a sense of change within unity in the American judicial tradition.

Suggested additional bibliographical sources:

Earlean M. McCarrick, ed. *U.S. Constitution: A Guide in Information Sources.* Gale Research Company, 1980.

Stephen M. Millett, ed. *A Selected Bibliography of American Constitutional History.* ABC/Clio Press, 1975.

Kermit L. Hall is professor of history and law at the University of Florida. He is the author of *The Rule of Law in American History* (forthcoming from Oxford University Press).

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FOR THE CLASSROOM: THE BLESSINGS OF LIBERTY

by Helen H. Carey and Judith E. Greenberg
Carey-Greenberg Associates

The posters and this User's Guide offer instructional models for teaching the Constitution to elementary, middle, and high school students. Each activity for these grade levels is linked to a poster or group of posters so that you may use the poster set as an integral part of the lessons. At each level there are activities, worksheets, and a variety of additional teaching opportunities for individual or group work. Many activities at one level can be adapted for use at another level. Also, parts or all of these activities can be assigned for homework rather than in-class work.

The background essay in this *Guide* sets the stage for understanding the major concepts presented in the poster series. The other essays, a bibliography and a syllabus for an adult reading/discussion group provide additional background references on constitutional history and principles. Although these are essentially resource material for teachers and discussion group leaders, they can also be used by advanced students.

There are many ways to teach with the posters. Each one may be presented separately, or you may wish to use several posters together in order to develop a theme or concept. The chart below presents two possible groupings. Many of the activities in the Guide are based on these.

Theme or Concept	Poster No.
The Need for the Constitution	2, 3, 4, 5
Arguments Surrounding Ratification	6, 7, 8
Fundamental Concepts of Government	9, 10, 11
Americans All	1, 12
Alternate Grouping	
Leading Up to the Constitution	1, 2, 3, 4
The Creation of the Constitution	5, 6, 7, 8
The Enduring Constitution	9, 10, 11, 12

The Constitution in the Elementary Classroom

Content Objectives

1. Define "government."
2. Identify a constitution as a plan of government.
3. Describe the two written plans of government of the United States.
4. Describe the division of powers among three separate branches of government in the United States.
5. Explain why compromise is essential to democracy.
6. Give examples of compromises made at the Constitutional Convention.

Attitudes, Values, and Skills Objectives

7. Discuss the goals of a representative (democratic) government.
8. Describe why participation and decision-making require time, knowledge, and personal effort.

Teaching Activity 1

Show children Poster No. 1, "The Blessings of Liberty." (See p. 7)

Questions for students:

1. What do you see in this poster that helps you identify the time period?
2. What are "Blessings"?
3. What is another word for "Liberty"?
4. What are some of your freedoms and blessings?
5. Do you know where the title for this poster comes from? Introduce the word "Preamble" and read the Preamble to the Constitution to the class. Next, break the class into small working groups. Give each group one of the goals listed in the Preamble and some old magazines. Have each group select pictures that illustrate their specific goal. Make a bulletin board display of the "Blessings of Liberty" with the poster as the centerpiece. As an alternative assignment, students could complement their picture selection for homework. Ask students to discuss "blessings" with their families and report the responses to the class.

Teaching Activity 2

Part I

Use Worksheet No. 1 with this activity. Tell students they are going to write a set of rules for the student council. Divide the class into two groups and ask each group to develop a plan of government for the student council. Set a time limit of 30 minutes for this part of the activity. It is important at this stage not to give the groups too many instructions as the idea is to simulate formalizing a plan of government. The worksheet will provide organizational guidelines for the group.

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Part II

The whole class meets as a convention to hear the formal plans of government for the council. Students will vote in the following manner:

Group A—presents Item I of the Worksheet.

Group B—presents Item I of the Worksheet.

Class discusses Item I, and votes. Follow this procedure until all items have been covered.

Part III Debriefing

Questions for students:

1. What is a plan of government called?
2. What happened when the groups couldn't agree? Why do governments need to compromise?
3. Why do nations need constitutions?
4. How many constitutions has the United States had?
5. What happened to our first constitution—the Articles of Confederation?

Show the class Poster No. 2, "The Articles of Confederation." (See p. 9) Analyze the cartoon by asking:

1. What was good about the Articles of Confederation? What were the problems with this plan of government?
2. Why did the cartoonist use finished building blocks for the accomplishments of the Articles of Confederation?
3. What do the unfinished stones represent? (They represent the missing elements necessary for effective government.)
4. What kinds of powers do Americans expect from our national government?

Show the class Poster No. 3, "A 'Less Perfect' Union, 1781–1788." (See p. 11.) Point out the three major problems under the Articles of Confederation illustrated on this poster.

Show Poster No. 4, "The Constitutional Convention." (See p. 13.) Point out to the class that when they met to discuss and vote on the Student Council constitution, they met in a convention. The Constitutional Convention met in *this* room two hundred years ago and wrote the Constitution we still use today.

Questions for students:

1. Describe the Assembly Room of the Old State House in Philadelphia. What do you see?
2. Who do you think sat in the big chair in the front?
3. Benjamin Franklin looked at the sun on the convention president's chair and, when the Constitution had been written and the convention was over, he said, "I have often . . . looked [at the sun] and [was not] able to tell whether it was rising or setting. But now . . . I have the happiness to say that it is a rising and not a setting sun." What did he mean?

Teaching Activity No. 3

Use Worksheet No. 2 with Poster No. 9, "A City Plan for the Constitution." (See p. 20.) If appropriate, students may also refer to their textbooks.

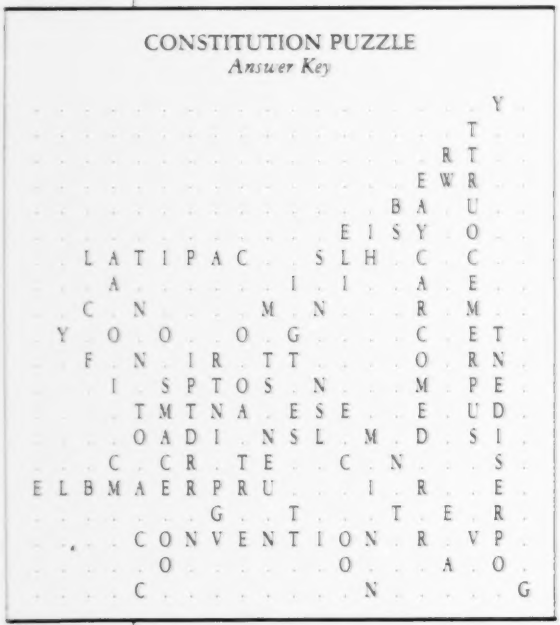
Additional Activities for Students

1. Read about George Washington, James Madison, Alexander Hamilton, James Wilson, Gouverneur Morris, or Benjamin Franklin, and report on his role at the Constitutional Convention.
2. Meet in small groups as states and identify the delegates from each state who attended the convention.
3. Make a two-column chart called "A New Constitution." Head one column *For* (Federalists) and the other *Against* (Anti-Federalists). Write two statements in each column.
4. Make a chart of the three branches of government: President, Congress, Supreme Court. Put these words in the correct column:

   enforce the laws
   make the laws
   interpret the laws,
   and their
   constitutionality

   Expand the chart by including other powers, for each branch—Executive branch: carrying out laws, introducing legislation, foreign policy making, proposing a budget, etc.; Legislative branch: advise and consent to presidential appointments and treaties, appropriating money, raising taxes, declaring war, etc.; Judicial branch: interpreting laws, settling disputes, etc.
5. Locate the three branches of government (buildings) on a map of Washington, D.C. Is the location of the Supreme Court as L'Enfant planned it?
6. Constitution Puzzle. Complete the word search on Worksheet No. 3. (See answer key below.)

CONSTITUTION PUZZLE
Answer Key



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ELEMENTARY LEVEL **Worksheet No. 1**

Name _____ Date _____

YOUR STUDENT COUNCIL CONSTITUTION

Preamble

The Purpose of the Student Council is to _____

_____

Article I
Meetings and Membership

Section 1. Members will be elected to the council by _____

Section 2. The meetings shall be held on _____

Section 3. The Council will be responsible for _____

Section 4. The Council will have the following committees: _____

Article II
Officers and Duties

Section 1. The president shall be responsible for _____

_____

Section 2. The vice-president shall _____

_____

Section 3. The secretary shall _____

_____

Section 4. The treasurer shall _____

_____

Article III
Teacher/Sponsor

Section 1. The sponsor shall _____

Article IV
Elections

Section 1. Officers shall be elected by _____

_____

Article V
Amendments

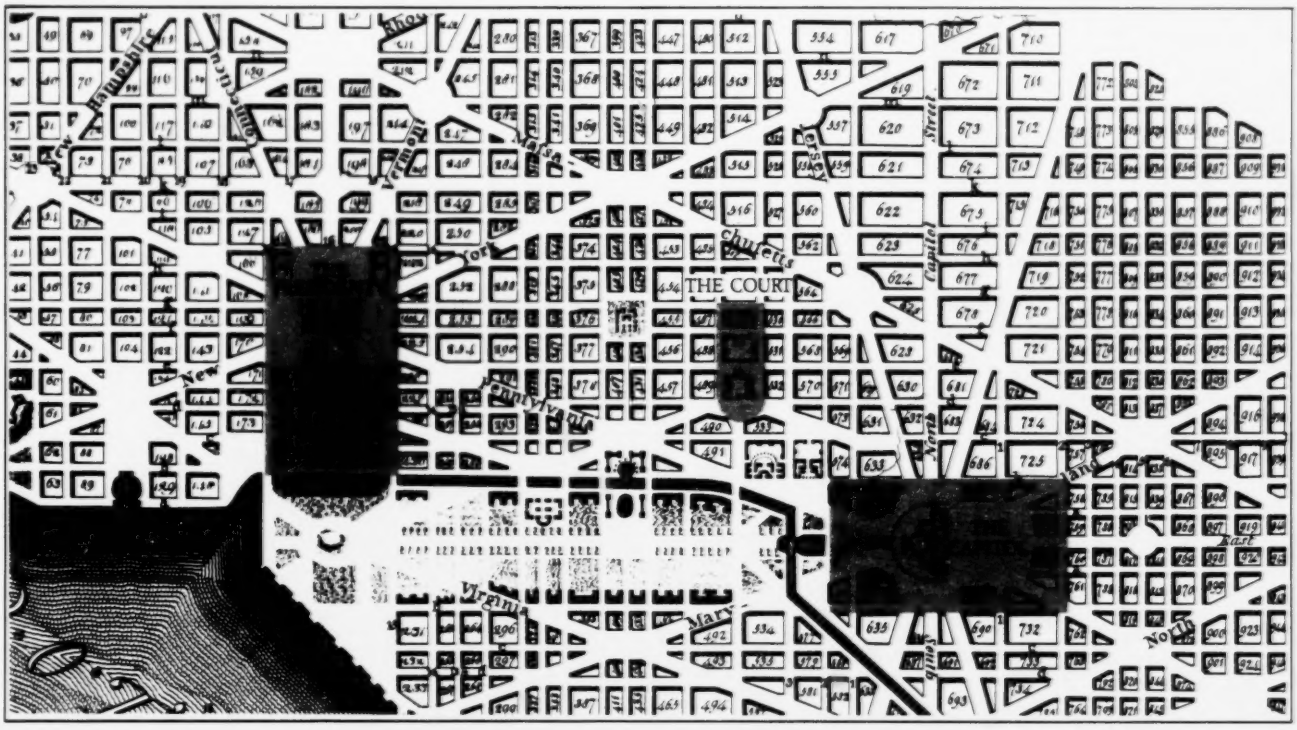
Section 1. This constitution may be amended by _____

_____

ELEMENTARY LEVEL Worksheet No. 2

Name _____ Date _____

A CITY PLAN FOR THE CONSTITUTION



A portion of Major Andrew Ellicott's version of Pierre L'Enfant's plan for the City of Washington, 1792. The building for the Supreme Court was constructed many years later in a different place, behind the Capitol.

Choose the word or term that best completes each sentence and write it in the space provided.

three	Capitol	Supreme Court	president
Congress	Pierre L'Enfant	White House	District of Columbia

1. The capital of the United States is the _____.
2. _____ was the French engineer who designed the plan for the city of Washington.
3. The founders of our country divided the powers of government into _____ branches of government.
4. _____ makes up the legislative or lawmaking branch.
5. The executive branch is headed by the _____.
6. The body that can rule that a law is unconstitutional is the _____.
7. The president lives in the _____.
8. The building where Congress makes the laws is called the _____.

ELEMENTARY LEVEL Worksheet No. 3

Name _____ Date _____

CONSTITUTION PUZZLE

Y	X	T	R	J	H	G	Y	K	X	P	O	T	R	E	M	P	H	Y	J
V	M	K	H	B	Q	B	T	S	U	A	Y	B	Y	P	A	Z	T	N	W
T	C	H	G	D	M	E	N	H	J	C	J	W	Z	G	Z	R	T	O	Q
F	T	I	A	L	F	C	V	H	N	T	C	I	N	B	E	W	R	S	H
Z	I	Q	O	F	Z	C	Y	Y	H	L	O	V	R	B	A	E	U	O	R
T	U	F	I	W	B	F	L	Q	K	D	F	E	I	S	Y	V	O	V	K
A	J	L	A	T	I	P	A	C	O	R	S	L	H	Z	C	B	C	S	A
A	A	A	A	E	B	A	L	B	R	I	G	I	I	Y	A	S	E	P	K
A	H	C	V	N	S	T	O	H	M	I	N	G	M	V	R	Z	M	F	H
U	Y	Z	O	W	O	Z	T	O	P	G	S	H	M	U	C	V	E	T	B
G	S	F	R	N	A	I	R	R	T	T	S	N	A	E	O	F	R	N	X
L	I	T	I	Q	S	P	T	O	S	B	N	S	L	M	M	Z	P	E	X
S	K	X	T	T	M	T	N	A	C	E	S	E	G	Q	E	V	U	D	A
S	I	Y	Y	O	A	D	I	D	N	S	L	Q	M	S	D	A	S	I	N
W	O	D	C	H	C	R	A	T	E	U	K	C	K	N	M	G	X	S	Y
E	L	B	M	A	E	R	P	R	U	S	C	O	I	L	R	L	N	E	M
Q	D	Z	N	Z	S	C	G	M	P	T	Z	B	M	T	L	E	V	R	L
X	D	O	L	C	O	N	V	E	N	T	I	O	N	H	R	S	V	P	R
Y	I	Z	B	Q	O	A	T	Y	V	M	T	O	R	O	A	A	E	O	N
D	T	Q	L	C	Y	S	D	B	W	T	X	W	N	U	G	E	I	W	G

There are 15 words in this puzzle.—can you find them?

They run up and down, across or diagonally. Circle the words you find.

Here are the words to look for:

ARTICLES
CAPITAL
COMPROMISE
CONGRESS
CONSTITUTION
CONVENTION
DEMOCRACY
GOVERNMENT
LIBERTY
NATIONAL
PREAMBLE
PRESIDENT
RATIFY
SUPREMECOURT
WASHINGTONDC

Write sentences using two of the puzzle words in each sentence.
Your sentences should show that you know the meaning of the words.

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The Constitution in the Middle School Classroom

Content Objectives

1. Describe the Constitution as a plan of government and explain how the city of Washington reflects this plan.
2. Identify the values and goals of the Constitution (liberty, limited and representative government).
3. Describe the process of ratification of the Constitution.
4. Describe the differences among the delegates to the state conventions that ratified the Constitution.

Attitudes, Values, and Skills Objectives

1. Examine primary sources.
2. Locate, gather, and analyze information.
3. Evaluate different points of view.

Teaching Activity No. 1

Step 1.

Show students Poster No. 1, "The Blessings of Liberty." (See p. 7.) Then, using Worksheet No. 1, have a student volunteer to read the Preamble aloud. Discuss values and goals such as "justice," "domestic tranquility," "common defense," "general welfare," and such words as: "secure," "posterity," "insure" and "ordain." Students complete Part I and II of the worksheet.

Step 2.

Students examine Posters No. 2 and 3, "The Articles of Confederation" and "A 'Less Perfect' Union, 1781–1788" (see p. 11), and complete the open-ended discussion starters.

1. In my opinion, the greatest weakness of the Articles of Confederation was _____.
2. The Constitution corrected this deficiency by _____.
3. The biggest difference between the two plans was _____.
4. Under the Articles of Confederation, Congress could not _____.
5. Under the Constitution, Congress can _____.
6. Under the Constitution, Congress cannot _____.

Step 3.

Note: This step could be a homework assignment. If you are doing it in class, have students bring several copies of newspapers and news magazines to class. Ask students to find articles which illustrate the six reasons why we have the Constitution. (See Part I on the worksheet.)

Teaching Activity No. 2

Step 1.

Show Posters No. 4, 5, 6, 7. "The Constitutional Convention," "The Founders' Achievement," "The Anti-Federalist Argument," "Ratification." (See pp. 13, 14, 16 and 17.)

Ask such questions as:

1. What is this poster about?
2. What primary source is being used?
3. What can you learn about the Constitution and the time period from the primary sources shown in each poster?

Step 2

In this activity students investigate the creation of the Constitution. Divide the class into two groups: the reporters and people who participated, either as delegates to the Constitutional Convention, to their state legislatures or to their state ratifying conventions. Members of each group must research and take notes to prepare for an interview session and a written report. Students will use the posters and their texts for this activity. Reporters take notes and then write one to ten interview questions. The participants take notes and prepare to be interviewed. Use the following questions to help students organize their research and note-taking.

When was the Constitution written?
What powers did the Constitution grant to the federal government?
When was it ratified?
Why was the Bill of Rights added?

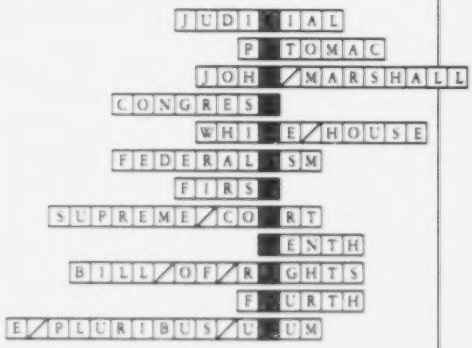
Next, pair reporters with participants for the interview sessions.

Step 3.

Reporters write short newspaper articles based on their research and interviews. (Some newspaper "cartoonists" may substitute political cartoons for an article.) Participant reports take the form of diaries, journals, letters, or memoirs. Arrange the posters, reports, newspaper articles, and illustrations as a class display of the Constitution.

Teaching Activity No. 3

Complete the puzzle on Worksheet 2. Answers appear below.



Additional Activities for Students

1. List the things James Madison did in the Constitutional Convention to earn the title "The Father of the Constitution."
2. Explain why it was important that George Washington presided over the convention.
3. Make a chart to show the three divisions of the nation's government and the duties of each.
4. Collect news articles illustrating the Bill of Rights in action today.
5. Create a "Jeopardy" or "Trivia"-style game on the Constitution. Use these categories for either game: Famous People, Places, Dates, Major Ideas, Constitutional Convention, Bill of Rights.
6. Invite a lawyer, judge, historian, or political scientist to speak to the class about due process and the rights of juveniles.
7. Write newspaper headlines that might have appeared in 1787, 1788 and 1789.

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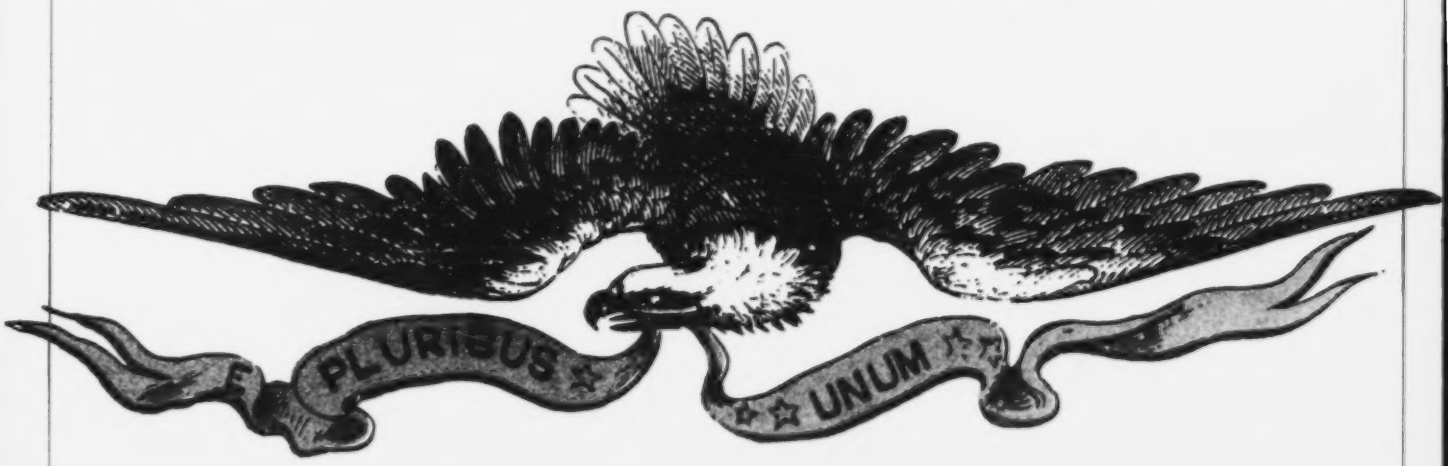
Name _____ Date _____

THE CONSTITUTION

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.



Part I. Read the Preamble here and put the six goals of the government of the United States on the lines below, using your own words.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

Part II. Write an Essay

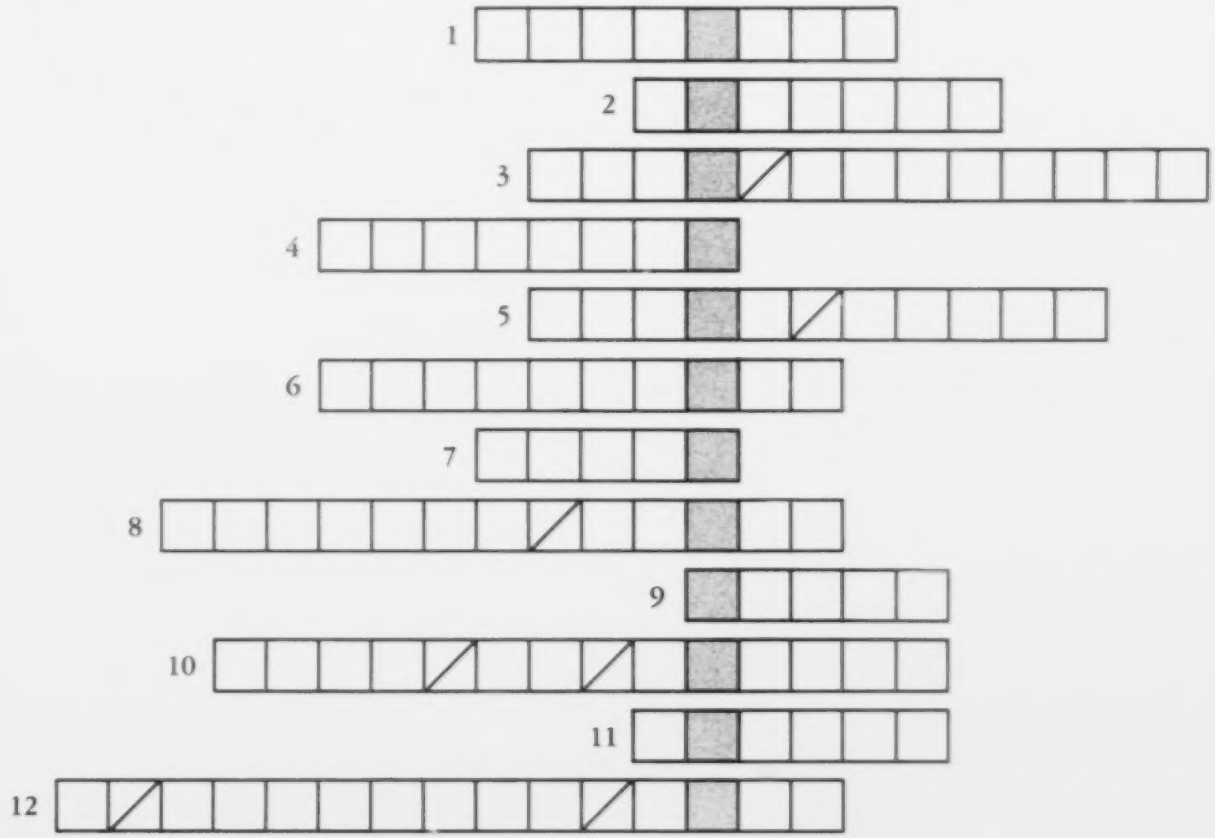
Use each of the six values listed above as the main idea of a paragraph. The six paragraphs make up the body of an essay on the meaning of the Preamble. You will need to supply supporting details under each main idea. Your essay will also need a title, an introduction and a conclusion.

INTERMEDIARY AND JUNIOR HIGH SCHOOL LEVEL Worksheet No. 2

Name _____ Date _____

THE ENDURING CONSTITUTION

DIRECTIONS. Use Posters No. 8, 9, 10, 11, 12 to complete this puzzle. When you have completed the puzzle correctly, a word will appear in the vertical column of shaded boxes. This word is the plan of our government.



1. The decision in *Marbury* v. *Madison* declared that this branch had certain powers over the other branches of government.
2. River in the capital of the United States.
3. Chief Justice who asserted the authority of the Supreme Court.
4. The design of the city of Washington placed this unit of government on the highest part of the city.
5. Center of the executive branch.
6. The principle that divides power between the central government and the states.
7. This amendment guarantees freedom of religion, speech, press, petition, and assembly.
8. Highest court in the land.
9. Powers not granted to the federal government or denied the states are reserved for the people in this amendment.
10. First ten amendments to the Constitution.
11. The amendment that guarantees the privacy of your home against unreasonable search and seizure.
12. Latin words for "Out of many, one."

1. Write the word that appears in the vertical column of shaded boxes in the blank below.

_____

2. Use each word in a sentence. Your sentences should show that you understand the meaning of each word.

Content Objectives

1. Explain the powers and duties of the three branches of the federal government.
2. Analyze separation of powers.
3. Examine historical events leading to the development of the Constitution of the United States.
4. Understand the principles upon which our government is based.

Attitudes, Values, and Skills Objectives

5. Tolerate differing opinions and value open-mindedness as an important aspect of democratic behavior.
6. Translate information from an oral interview to a written or oral group report.
7. Understand and participate in the decision-making process.

Teaching Activity 1

Use Worksheet No. 1 with this activity. Tell students they will be working in groups to interview people from the time period of the Constitution through today. Each group will be given a person to interview, and a worksheet to guide research and presentation. Each "personality" represents a problem or issue of government and is a main idea of one or more posters. Rather than looking at the development of the Constitution in the abstract, students will interview fictitious people who represent the problems and issues of the times.

Step 1

Divide the class into small groups (2 to 4 students in each group). Give each group a personality to interview and a worksheet.

CONSTITUTION PERSONALITIES

1. A ship owner from Boston, 1784. Important issue: Goods can't be shipped from one state to another without paying separate state duties.
2. A settler in Tennessee, 1783. Important issue: After building a cabin and clearing the land, the settler is now being told by the state court that someone else owns the land since it recently became part of another state. The settler has been told that there is no further legal recourse.
3. Merchant in Pennsylvania, 1781. Important issue: business is showing a loss because all the different currencies have different values.
4. Doctor in Rhode Island, 1781. Important issue: the doctor's family is ill-housed and ill-fed because patients pay either in goods or in worthless dollars.
5. Farmer in Massachusetts, 1786. Important issue: the farmer has been unable to raise the money to pay taxes and the family's farm and home have been confiscated.
6. Western farmer, 1787. Important issue: farm goods can't be shipped to New Orleans because the Mississippi River was closed off by Spain.
7. Innkeeper in Philadelphia, 1787. Important information: the inn is across from the Old State House; it is frequented by delegates attending the federal convention during the summer of 1787.
8. Prominent Federalist, 1787. Important information: He wrote articles in *The Federalist*.
9. Prominent Anti-Federalist, 1787. Important information: he is a good friend of Patrick Henry, George Mason, and Richard Henry Lee.
10. Builder, Washington, D.C., 1810. Important information: he worked on the major new buildings in the federal city.
11. A newspaper editor, 1819. Important information: she wrote about the decisions of John Marshall.
12. High school student, Anywhere, USA, 1987, who is studying the Constitution of the United States.

Step 2

After each group has selected a personality to interview, the next step is to refer to the appropriate poster and begin the research. The completed interview will reflect the information collected by group members from the poster and other sources of information. At this time students complete the worksheet.

Step 3

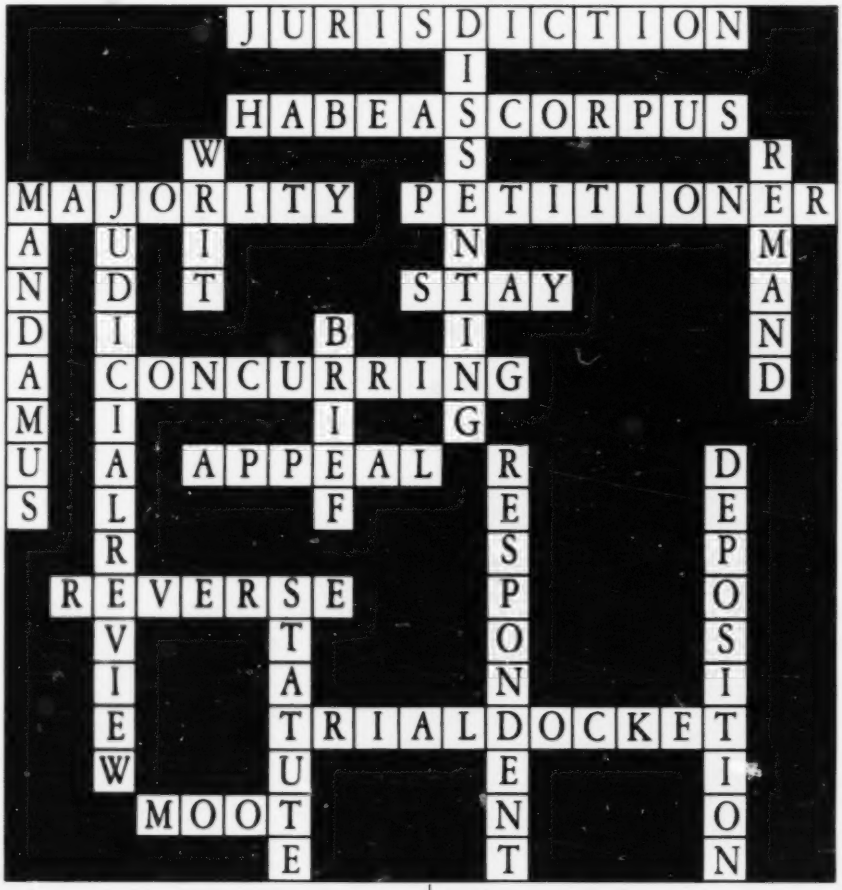
Now, each group presents its interview to the class. Class members should be encouraged to take notes during the presentations. The class might evaluate the interviews, using this criteria:

1. Were the questions and answers appropriate to the role and personality? (10 points)
2. Were the important issues relating to the Constitution covered in the interview? (20 points)
3. Was the interview historically accurate? (20 points)

Step 4

As a follow-up activity have students complete the following open-ended sentences:

1. Two problems that needed correction under the Articles of Confederation were . . .
2. The United States under the Articles of Confederation was a "less perfect" union because . . .
3. The most important achievement of the Federalists was . . .
4. The main Anti-Federalist argument was . . .
5. The design of Washington, D.C. is a physical plan demonstrating . . .
6. The Constitution is important to me because . . .



Teaching Activity 2

Students complete the crossword puzzle (Worksheet 2). Answers can be found at left.

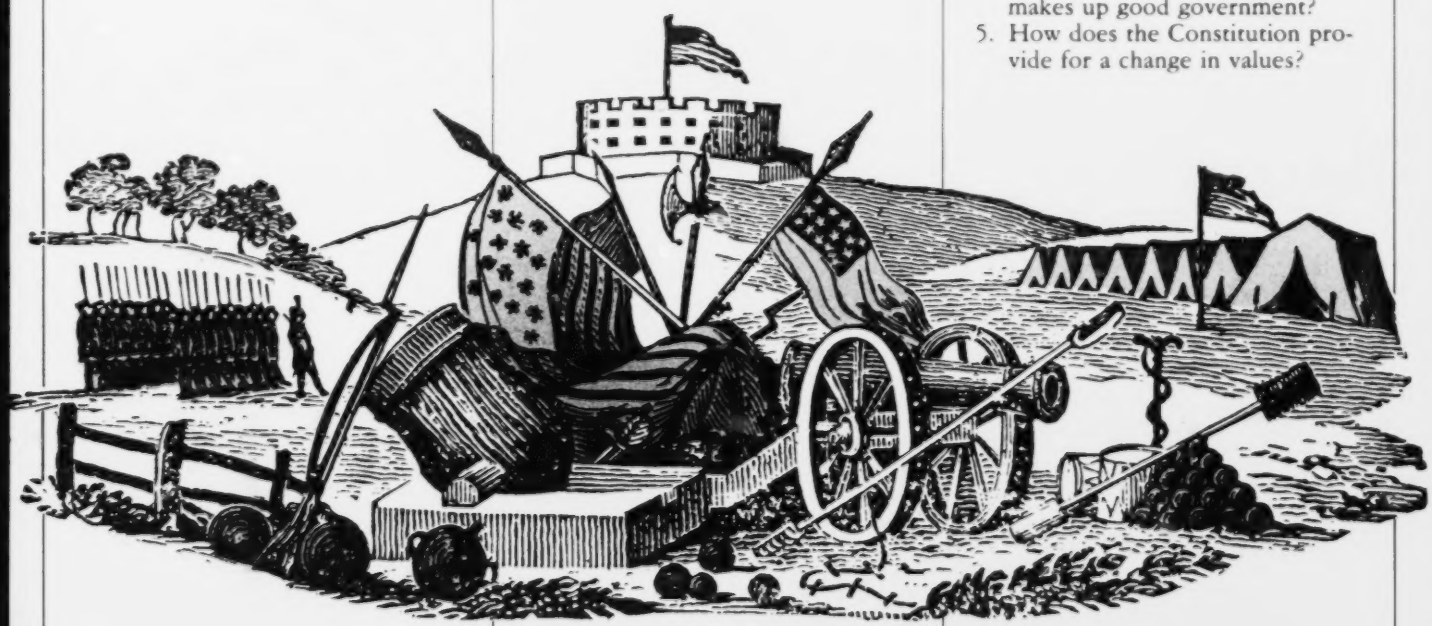
Teaching Activity 3

Students examine the entire poster set (individually or in small groups) and write a list of the principles upon which our government is based. Principles that may appear on the list include: written constitution, bicameral legislature, separation of powers, judicial appeal, federalism, protection of individual liberties, free elections, a free press.

Next, students examine the Constitution to find the section(s) in the Constitution where each principle is either addressed directly or implied.

Review

1. Which principles were not addressed directly in the Constitution?
2. What reasons can you suggest for these principles not being directly included in the Constitution?
3. What basic American values do these principles reflect? Do any of these values conflict in some way?
4. What assumptions do these principles reflect about what makes up good government?
5. How does the Constitution provide for a change in values?



HIGH SCHOOL LEVEL Worksheet No. 1

Name_____ Date_____

HISTORICAL INTERVIEW

PART I. Q & A

In your first group meeting, decide who you are interviewing, and what the person's relationship is to the Constitution. Decide which poster will be most useful in your research.

Write the questions to be used in the interview. Divide the questions among the members of your group and begin looking for the answers.

PART II. RESEARCH NOTES Use these headings for your notes:

My Questions	Answers	Information that will help another group member	Source of Information

PART III. WRITING THE INTERVIEW

In the second group meeting, compare and share information that you have gathered for the interview. Write the interview dialogue. Use this checklist as a guide.

- Do the answers respond to the questions?
- Are the answers appropriate to the person, the time period, and the event?
- Is the interview interesting?
- Does the interview information teach something about the Constitution—history, people, issues, and its durability?

PART IV. PRESENTATION Choose two members of your group to present the interview. One will interview and the other will represent the Constitution personality. Use the dialogue prepared in Part III.

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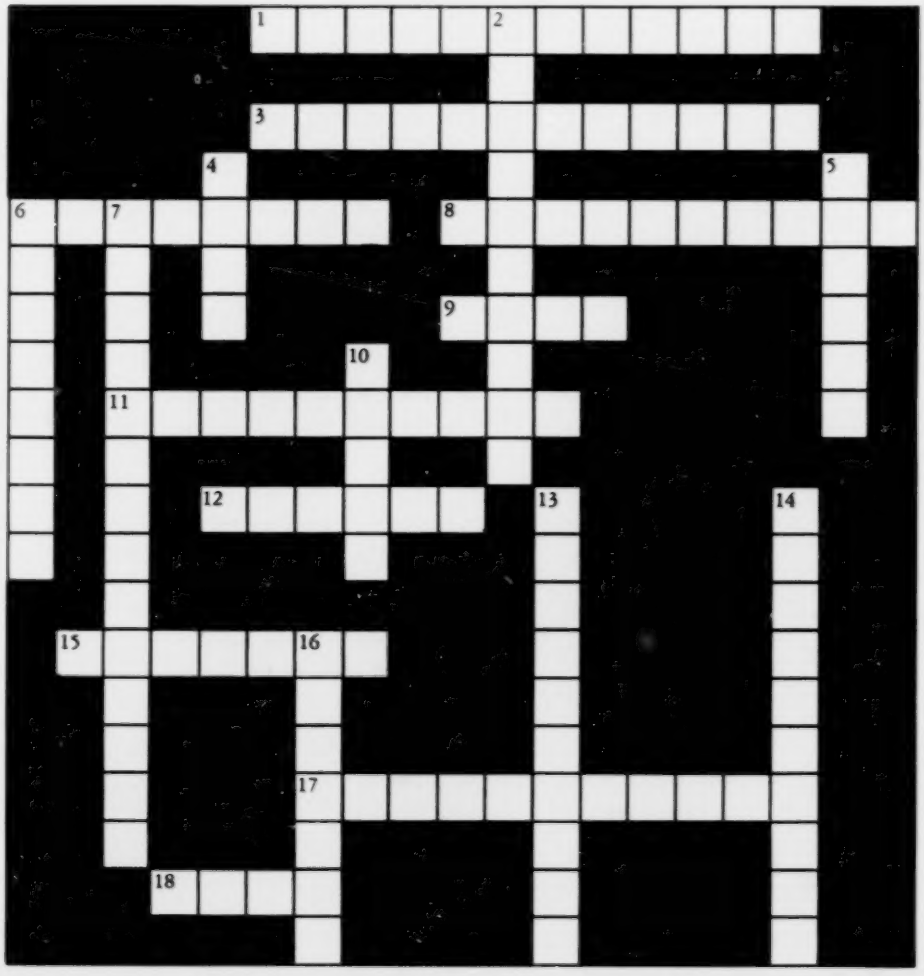
OYEZ OYEZ OYEZ!



ACROSS CLUES

1. The power of the court to hear a case.
3. "Let me have the body." Court order demanding to know whether a person is being held lawfully.
6. The opinion of most of the Supreme Court justices.
8. The person who files the writ of certiorari (seeking court action).
9. To halt an action ordered by a court.
11. The opinion by justices who agree with the majority opinion but for a different reason.
12. Bring a case to a higher court for review.
15. To declare the decision of a lower court incorrect.
17. Court calendar of cases to be heard.
18. No longer relevant, with respect to a court case.

DOWN CLUES

2. Supreme Court opinion disagreeing with the majority opinion.
4. Written court order to do or not do something.
5. To send a case back to the same court.
6. A type of writ issued by a court requiring a lower court or a government agency to take a particular action.
7. When a court determines constitutionality of a law.
10. Lawyer's statement of facts and points of law in a case.
13. Opposite of petitioner or appellant.
14. Witness' testimony taken before trial.
16. Law passed by a legislature.

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EIGHTEENTH-CENTURY AMERICAN CONSTITUTIONALISM

by Gordon S. Wood

The era of the American Revolution was the greatest and most creative age of constitutionalism in American history. During the last part of the eighteenth century Americans established the modern idea of a written constitution. There had been written constitutions before in Western history, but Americans did something new and different. They made written constitutions a practical and everyday part of governmental life. They showed the world not only how written constitutions could be made truly fundamental, distinguishable from ordinary legislation, but also how such constitutions could be interpreted on a regular basis and altered when necessary. Further, they offered the world concrete and usable governmental institutions for the carrying out of these constitutional tasks. All in all it was an extraordinary achievement, scarcely duplicated by any modern country in such a brief period of time.

Before the era of the American Revolution a constitution was rarely ever distinguished from the government and its operations. Traditionally in English culture a constitution referred not only to fundamental rights but also to the way the government was put together or constituted. A constitution was the disposition of the government; it even had medical or physiological connotations, like the constitution of the human body. "By constitution," wrote Lord Bolingbroke in 1733, "we mean, whenever we speak with propriety and exactness, that assemblage of laws, institutions and customs, derived from certain fixed principles or reason, directed to certain fixed objects of public good, that compose the general system, according to which the community hath agreed to be governed." The English constitution, in other words, included both fundamental principles and rights and the existing arrangement of governmental laws, customs, and institutions.

By the end of the Revolutionary era, however, the Americans' idea of a constitution had become very different from that of the English. A constitution was now seen to be no part of the government at all. A constitution was a written document distinct from and superior to all the operations of government. It was, as Thomas Paine said in 1791, "a thing *antecedent* to a government; and a government is only the creature of a constitution." And, said Paine, it was "not a thing in name only; but in fact." For Americans a constitution was like a bible, possessed by every family and every member of government. "It is the body of elements, to which you can refer, and quote article by article; and which contains . . . everything that relates to the complete organization of a civil government, and the principles on which it shall act, and by which it shall be bound." A constitution thus could never be an act of a legislature or of a government; it had to be the act of the people themselves, declared James Wilson in 1790, one of the principal framers of the federal Constitution of 1787; and "in their hands it is clay in the hands of a potter; they have the right to mould, to preserve, to improve, to refine, and to furnish it as they please." If the English thought this American idea of a constitution was, as Arthur Young caustically suggested in 1792, like "a pudding made by a recipe", the Americans had become convinced the English no longer had a constitution at all.

It was a momentous transformation of meaning. It involved not just a change in the Americans' political vocabulary but an upheaval in their whole political culture. In the short span of less than three decades Americans created a whole new way of looking at government.

The colonists began the imperial crisis in the early 1760s thinking about constitutional issues in much the same way as their fellow Britons. Like the English at home they believed that the principal threat to the people's ancient rights and liberties had always been the prerogative powers of the king, those vague and discretionary but equally ancient rights of authority that the king possessed in order to carry out his responsibility for governing the realm. Indeed, eighteenth-century English citizens saw their history as essentially a struggle between these conflicting rights, between a centralizing monarchy on one hand and localist-minded nobles and people on the other. Eighteenth-century colonists had no reason to think about government much differently. Time and again in the colonial period the colonists had been forced to defend themselves against the intrusions of royal prerogative power. They relied for defense on their colonial assemblies, their rights as Englishmen, and what they called their ancient charters. In the seventeenth century many of the colonies had been established by crown charters, corporate or proprietary grants made by the king to groups like the Massachusetts Puritans or to individuals like William Penn and Lord Baltimore to found colonies in the New World. In subsequent

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years these written charters gradually lost their original purpose in the eyes of the colonists and took on a new importance, both as prescriptions for government and as devices guaranteeing the rights of the people against their royal governors. In fact, the whole of the colonists' past was littered with such charters and other written documents of various sorts to which the colonial assemblies had repeatedly appealed in their squabbles with royal power.

In appealing to written documents as confirmations of their liberties the colonists acted no differently from other Englishmen. From almost the beginning of their history, Britons had continually invoked written documents and charters in defense of their rights against the crown's power. "Anxious to preserve and transmit" their liberties "unimpaired to posterity", the English people, observed one colonist on the eve of the Revolution, had repeatedly "caused them to be reduced to writing, and in the most solemn manner to be recognized, ratified and confirmed," first by King John with Magna Carta, then by Henry III and Edward I, and "afterwards by a multitude of corroborating acts, reckoned in all, by Lord Cook, to be thirty-two from Edw. 1st to Hen. 4th. and since, in a great variety of instances, by the bills of rights and acts of settlement." All of these documents, from Magna Carta to the Bill of Rights of the Glorious Revolution of 1689, were merely written evidence of those "fixed principles of reason" from which Bolingbroke had said the English constitution was derived.

Indeed, it was precisely on this distinction between "legal" and "constitutional" that the American and the British constitutional traditions diverged at the Revolution.

Although eighteenth-century Englishmen talked about the fixed principles and the fundamental law of the English constitution, few of them doubted that Parliament, as the representative of the nobles and people and as the sovereign lawmaking body of the nation, was the supreme guarantor and interpreter of these fixed principles and fundamental law. Parliament was in fact the bulwark of the people's liberties against the crown's encroachments; it alone defended and confirmed the people's rights. The Petition of Right, the act of Habeus Corpus, the Bill of Rights were all acts of Parliament, statutes not different in form from other laws passed by Parliament.

For Englishmen therefore, as William Blackstone, the great eighteenth-century jurist pointed out, there could be no distinction between the "constitution or frame of government" and "the system of laws". All were of a piece: every act of Parliament was part of the English constitution and all law, customary and statute, was thus constitutional. "Therefore," concluded the English theorist William Paley, "the terms *constitutional* and *unconstitutional*, mean *legal* and *illegal*."

Nothing could be more strikingly different from what Americans came to believe. Indeed, it was precisely on this distinction between "legal" and "constitutional" that the American and the British constitutional traditions diverged at the Revolution. During the 1760s and seventies the colonists came to realize that although acts of Parliament, like the Stamp Act of 1765, might be legal, that is, in accord with the acceptable way of making law, such acts could not thereby be automatically considered constitutional, that is, in accord with the basic principles of rights and justice that made the English constitution what it was. It was true that the English Bill of Rights and the act of settlement in 1689 were only statutes of Parliament, but surely, the colonists insisted, they were of "a nature more sacred than those which established a turnpike road." Under this pressure of events the Americans came to believe that the fundamental principles of the English constitution had to be lifted out of the law-making and other institutions of government and set above them. "In all free States," said Samuel Adams in 1768, "the Constitution is fixed; and as the supreme Legislature derives its Powers and Authority from the Constitution, it cannot overleap the Bounds of it without destroying its own foundation." Thus in 1776, when Americans came to make their own constitutions for their newly independent states, it was inevitable that they would seek to make them fundamental and explicitly write them out in documents.

It was one thing, however, to define the constitution as fundamental law, different from ordinary legislation and circumscribing the institutions of government; it was quite another to make such a distinction effective. In the years following the Declaration of Independence, many Americans paid lip service to the fundamental character of their state constitutions, but like eighteenth-century Britons they continued to believe that their legislatures were the best instruments for interpreting and changing these constitutions. The state legislatures were the representatives of the people, and the people, it seemed, could scarcely tyrannize themselves. Thus in the late 1770s and early eighties, several state legislatures, acting on behalf of the people, set aside parts of their constitutions by statute and interpreted and altered them, as one American observed, "upon any occasion to serve a purpose." Time and again the legislatures interfered with the governors' legitimate powers, rejected judicial decisions, disregarded individual liberties and property rights, and in general, as one victim complained, violated "those fundamental principles which first induced men to come into civil compact."

By the mid-1780s many American leaders had come to believe that the state legislatures, not the governors as they had thought in 1776, were the political authority to be most feared. Legislators were supposedly the representatives of the people who annually elected them; but "173 despots would surely be as oppressive as one," wrote Thomas Jefferson. "An *elective despotism* was not the government we fought for." It increasingly seemed to many that the idea of a constitution as fundamental law had no real meaning after all. "If it were possible it would be well to define the extent of the Legislative power, but," concluded a discouraged James Madison in 1785, "the nature of it seems in many respects to be indefinite."

These then were the great contributions to constitutionalism that Americans in the Revolutionary era made to the world—the modern idea of a constitution as a written document, the device of a convention for creating and amending constitutions, the process of popular ratification, and the practice of judicial review.

No one wrestled more persistently with this problem of distinguishing between statutory and fundamental law than did Jefferson. In 1779 Jefferson knew from experience that no legislature "elected by the people for the ordinary purposes of legislation only" could restrain the acts of succeeding legislatures. Thus he realized that to declare his great act for Establishing Religious Freedom in Virginia to be "irrevocable would be of no effect in law; yet we are free," he wrote into the bill in frustration, "to declare, and do declare, that . . . if any act shall be hereafter passed to repeal the present or to narrow its operation, such act will be an infringement on natural right." But such a paper declaration was obviously not enough; he realized that something more was needed. By the 1780s both he and Madison were eager "to form a real constitution" for Virginia; the existing one was merely an "ordinance" with "no higher authority than the other ordinances of the same session." They wanted a constitution that would be "perpetual" and "unalterable by other legislatures." But how? That was the rub. Somehow or other, if the constitution were to be truly fundamental and immune from legislative tampering, it would have to be created, as Jefferson put it, "by a power superior to that of the legislature."

By the time Jefferson came to write his *Notes on the State of Virginia* in the early 1780s the answer had become clear. "To render a form of government unalterable by ordinary acts of assembly," said Jefferson, "the people must delegate persons with special powers. They have accordingly chosen special conventions to form and fix their governments." In 1775–76 conventions or congresses had been legally deficient legislatures made necessary by the refusal of the royal governors to call together the regular and legal representatives of the people. Now, however, these conventions were seen to be special alternative representations of the people with the exclusive authority to frame or amend constitutions. When Massachusetts and New Hampshire wrote new constitutions in the early 1780s, the proper pattern of constitution-making and constitution-altering was set: constitutions were formed by specially elected conventions and then placed before the people for ratifi-

cation. Thus in 1787 those who wished to change the federal government knew precisely what to do: they called a convention in Philadelphia and sent the resultant document to the states for approval. Even the French in their own revolution several years later followed the American pattern. Conventions and the process of ratification made the people the actual constituent power. Such institutions, historian R. R. Palmer had said, were the most distinctive contributions the American Revolution made to Western politics.

But these were not the only contributions. With the idea of a constitution as fundamental law immune from legislative encroachment more firmly in hand, some state judges during the 1780s began cautiously moving in isolated cases to impose restraints on what the assemblies were enacting as law. In effect they said to the legislatures, as George Wythe, judge of the Virginia supreme court did in 1782, "Here is the limit of your authority; and hither shall you go, but no further." These were the hesitant beginnings of what would come to be called judicial review—that remarkable American practice by which judges in the ordinary courts of law have the authority to determine the constitutionality of acts of the state and federal legislatures. There is nothing quite like it anywhere else in the world.

The development of judicial review came slowly. It was not easy for people in the eighteenth century, even those who were convinced that many of the acts of the state legislatures in the 1780s were unjust and unconstitutional, to believe that unelected judges could set aside acts of the popularly-elected legislatures; this prerogative seemed to be an undemocratic judicial usurpation of power. But as early as 1787 James Iredell of North Carolina, soon to be appointed a justice of the newly-created Supreme Court of the United States, saw that the new meaning Americans had given to a constitution had clarified the responsibility of judges to determine the law. A constitution in America, said Iredell, was not only "a fundamental law" but also a special popularly-created "law in writing . . . limiting the powers of the Legislature, and with which every exercise of those powers must necessarily be compared." Judges were not arbiters of the constitution or usurpers of legislative power. They were, said Iredell, merely judicial officials fulfilling their duty of applying the proper law. When faced with a decision between "the *fundamental unrepealable* law" made specially by the people and an ordinary statute enacted by a legislature contrary to the constitution, they must simply determine which law was superior. Judges could not avoid exercising this authority, concluded Iredell, for in America a constitution was not "a mere imaginary thing, about which ten thousand different opinions may be formed, but a written document to which all may have recourse, and to which, therefore, the judges cannot witfully blind themselves." Although Iredell may have been wrong about the number of different opinions that could be formed over a constitution, he was certainly right about the direction judicial authority in America would take. Through the subsequent development of the doctrine of judicial review judges in America came to exercise a power over governmental life unparalleled by any other judiciary in the world.

These then were the great contributions to constitutionalism that Americans in the Revolutionary era made to the world—the modern idea of a constitution as a written document, the device of a convention for creating and amending constitutions, the process of popular ratification, and the practice of judicial review. The sources of these constitutional contributions went back deep in Western history. For centuries people had talked about fundamental law and the placing of limits on the operations of government. But not until the American Revolution had anyone ever developed such regular and everyday institutions not only for controlling government and protecting the rights of individuals but also for changing the very framework by which the government operated. Americans in 1787 and in numerous state constitutional conventions thereafter demonstrated to the world how a people could fundamentally and yet peaceably alter their forms of government. In effect they had institutionalized and legitimized revolution. After these American achievements, discussions of constitutionalism could never again be quite the same.

Suggested additional reading:

Edward S. Corwin, *The "Higher Law" Background of American Constitutional Law* (1959).

J. W. Gough, *Fundamental Law in English Constitutional History* (1961).

Andrew C. McLaughlin, *The Foundations of American Constitutionalism* (1932).

Gordon S. Wood, *The Creation of the American Republic, 1776-1787* (1969).

Gordon S. Wood is professor of history at Brown University, and the author of *The Creation of the American Republic, 1776-1787* (University of North Carolina Press, 1969).

SYLLABUS
THE AMERICAN FOUNDING:

by Murray Dry

A STUDY GUIDE FOR A SEMINAR ON THE FRAMING OF THE CONSTITUTION AND THE DEBATE OVER ITS RATIFICATION: 1787–1788

The purpose of this study guide is to introduce students, teachers, and members of reading groups to the founding dialogue over our Constitution. The focus is on the primary materials: the Declaration of Independence, the Articles of Confederation, James Madison's "Notes" from the Federal Convention, *The Federalist* papers, and selected Anti-Federalist essays. The discussions and writings are accessible to the interested reader and they constitute a high level of political deliberation and argument. Recently the intention of the framers has become a topic of interest and controversy among scholars and public figures. To enter into that important debate, one needs some familiarity with this material.

Texts

The main texts are: Winton U. Solberg's *The Federal Convention and the Formation of the Union of the American States* (Bobbs Merrill, American Heritage Series, 1958); Clinton Rossiter's edition of *The Federalist Papers* (Mentor book, New American Library 1961), and Herbert Storing's edition of *The Anti-Federalist* (abridged by Murray Dry, University of Chicago, 1985). The last two books are readily available and any complete edition of *The Federalist* will do. Solberg's excellent student edition (it contains a good abridgement of Madison's *Notes*, a collection of the most important colonial documents, along with the Declaration of Independence and the Articles of Confederation, and short biographies of each of the members of the Federal Convention) is out of print but may be available in a library. The only alternative that is in print is Page Smith's *The Constitution: A Documentary and Narrative History* (William Morrow and Company, Inc., 1978), available in paperback ($15.95). (A one-volume edition of Madison's *Notes*, brought out in hard cover by Ohio State University Press, in 1966, with an introduction by Adrienne Koch, and in paperback by Norton Library, in 1969, is now out of print.) The best full documentary sources are Jack P. Greene's *Colonies to Nation, 1763–1789; A Documentary History of the American Revolution* (Norton, 1975), and Max Farrand's definitive *The Records of the Convention of 1787* (4 vols. Yale University Press, 1937). The reading material will be cited so that it can be located in other editions besides Solberg, Rossiter, or Storing. In addition to the Solberg citations, citations to Smith will also be provided. There should be no copyright problem if individual copies of Solberg are made for a non-commercial use. When in doubt, the teacher or seminar leader can always write to the publisher and request permission to copy a given number of pages for a seminar.

The Syllabus

The proposed seminar is divided into six sessions of one and one-half to two hours each. (If time permits, an additional session on ratification might be useful.) The primary reading will be followed by suggested secondary sources, a description of the material and suggested discussion topics or questions.

First Class: From the Colonial Debate and the Declaration of Independence to the Articles of Confederation and the Virginia Plan

Primary Reading: Solberg, Declaration of Rights of the Stamp Act Congress, 1765 (pp. 5–7); Declaration and Resolves of First Continental Congress, 1774 (pp. 10–14); Resolution of Congress, May 10–15, 1776 (p. 29); Resolution of Independence, June 7, 1776 (p. 32); Declaration of Independence (pp.34–38); Articles of Confederation (pp. 42–53); the Congressional Resolution for a Federal Convention, February 21, 1787 (pp. 63–64); the Virginia Plan in the Federal Convention (pp. 75–80, including Governor Randolph's introductory speech). Smith has the Articles of Confederation (pp. 73-80) and the Virginia Plan (pp. 93–99).

Supplementary Reading: Andrew C. McLaughlin, *The Confederation and the Constitution, 1783–1789* (a good short history); Thomas Jefferson, *Notes on Virginia*, Query XIII (a short constitutional history of Virginia, from the beginning to 1783, in Merrill D. Peterson, ed. *The Portable Thomas Jefferson*, Viking Press, 1975, pp. 153–76).

A. The Colonial Debate and the Declaration of Independence

Since the early colonial arguments were couched in terms of "the rights of Englishmen," what authority in England, if any, did the colonists acknowledge, and with respect to what actions? Would they permit commercial regulations but not revenue raising measures, or did they want to be free of all parliamentary authority (pp. 12–13)? What does it mean to profess allegiance to the Crown but not to Parliament, as the fourth resolution of 1774 implies (p. 12)?

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Shifting to the Declaration of Independence, we note the reliance is now on natural law and the object of indictment is the king, not Parliament. Why do these two shifts occur together? What is "the law of nature and nature's God," and how does it describe the relationship between the individual and the community? On the one hand, the rights to life, liberty and the pursuit of happiness are individual, but the right to alter or abolish government belongs to a people. And while the Declaration refers to "one people," it is entitled "The Unanimous Declaration of the Thirteen United States of America." The question arises whether the United States declared their independence from Great Britain collectively or severally. The explicit declaration—"that these United Colonies are, and of Right ought to be FREE and INDEPENDENT STATES"—is ambiguous. Since the Declaration concludes by naming certain powers that free and independent states possess—to levy war, to conclude peace, etc.—it is useful to examine the first federal Constitution to see where these powers are lodged.

Note: The Smith edition does not contain the relevant material for this section. If Solberg is not used, consult Greene, which is in print.

B. The Articles of Confederation and the Virginia Plan

The members of the Federal Convention were faced with a proposal for a completely new and radically nationalist constitution on the first full day of business. Therefore, it is appropriate to begin our study of the Federal Convention with a comparison of the resolutions of the Virginia Plan with the Articles of Confederation. The following topics highlight the extent and character of the proposed changes:

1. sovereignty and the extent of the powers—compare Articles II, VI, VIII, and IX (A of C) with the sixth resolution.

2. mode of election, apportionment, and recall—compare Article V with the second, third, and fourth resolutions.

3. structure of government—compare Article IX with resolutions seven through nine

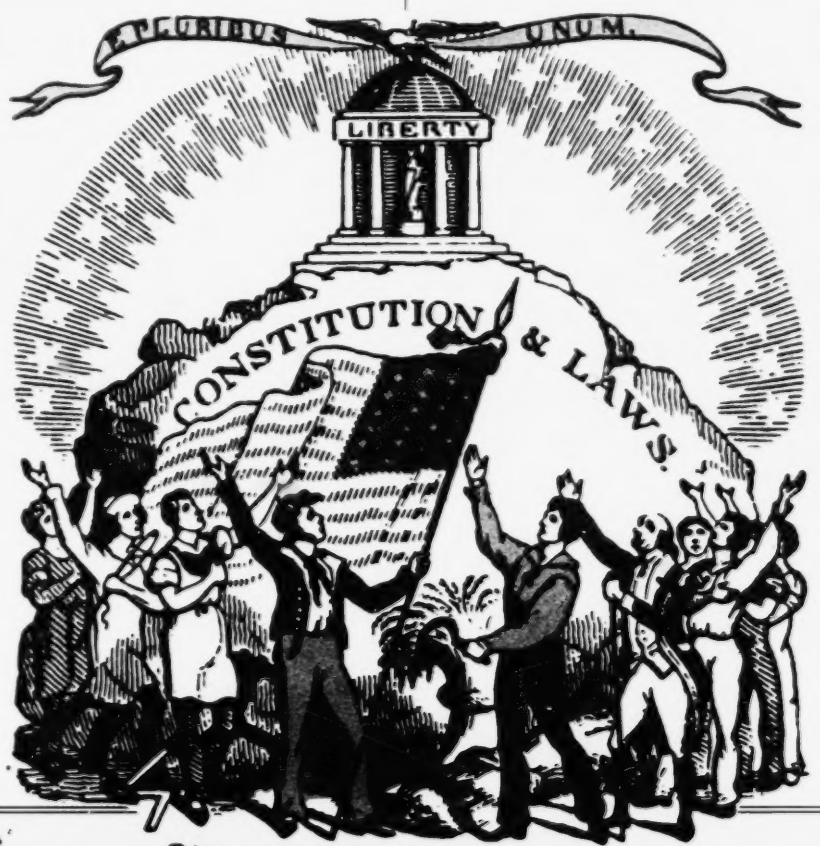
4. mode of amendment and ratification—compare Article XIII with resolutions 13 and 15. See also Congressional Resolution of 21 February 1787. (This resolution is not in Smith or Greene.)

In addition, the following three rules of the Convention should be noted: (1) the voting was by states, with seven states forming a quorum and a majority of the delegations present necessary to pass a resolution; (2) any vote could be reconsidered; and (3) nothing spoken in the Convention was to be printed or reported outside without permission.

Second Class: The Virginia Plan Examined, and then Compared to the New Jersey Plan and the Hamilton Plan

Primary Reading: Solberg: pp. 80–155 (Federal Convention, May 30–June 19); or Smith, pp. 100–162, which has most of the material. (See the citations in the questions.)

From May 30 to June 13, the



Convention went through the Virginia Plan twice. From June 15 to June 19, the Convention heard from the New Jersey delegation, which offered a more modest revision of the Articles, and from Alexander Hamilton, who, speaking for himself alone, offered a more nationalist and high-toned constitution than the Virginia Plan; the Convention then decided to report the Virginia Plan out of the Committee of the Whole.

A. The Virginia Plan

1. How do Gouverneur Morris and George Mason explain the difference between the national and the federal principles of union (May 30, pp. 81–82; Smith, p. 101)?

2. How does Madison link the change in "suffrage" (we would say apportionment) to the change from a federal to a national union (May 30, p. 83; Smith, p. 103)?

3. On May 31 (pp. 84–86) the Convention considers the proposal to have the lower house elected by the people. What is the relationship between this proposal and democracy? What is the relationship between the proposal and a strengthened federal government (Smith, pp. 103–105)?

4. The discussion on the executive, from June 1 to June 4 (pp. 89–101; Smith, pp. 108–121), reveals different views of the relationship between executive power and republican government. It also reveals uncertainty concerning the range of executive power. Compare Roger Sherman's view with Mason's reasons for opposing a unitary executive (June 4, pp. 99–100).

5. The discussion of the ratification proposal (June 5, pp. 103–104; Smith, pp. 122–123) reveals both juridical and political reasons for departing from the existing constitutional provision. (See the thirteenth article.) What problem does it introduce?

6. When the mode of election for the lower house is reconsidered on June 6, Sherman and Madison take different positions on the appropriate powers for the federal government (pp. 107–110; Smith, pp. 125–128). These two speeches provide a prelude to the major issue in ratification, and Madison's speech is an early version of his famous *Federalist* 10.

7. How does John Dickinson's understanding of the nature and purpose of bicameralism in republican government differ from Madison's? (See June 7, pp. 112–113; Smith, June 6, p. 128, June 7, pp. 122–123.)

8. What is the case for the national negative (June 8, pp. 116–119; Smith, pp. 134–137)? What is the case against it?

9. What are the arguments that David Brearly and William Paterson make against the Virginia Plan (June 9, pp. 120–122; Smith, pp. 138–140)?

B. The Three Plans Compared

10. What are the major features of the New Jersy Plan (June 15, pp. 131–134; Smith, pp. 149–151)? See the comparison by Wilson as well as his response to Paterson and Brearly (June 16, pp. 135–139; Smith, pp. 154–156). See also Hamilton's reply to the legal challenge to the Virginia Plan (June 18, p. 141; Smith, p. 157).

11. Consider Hamilton's June 18 speech and his plan (pp. 140–149; speech only in Smith, pp. 157–162). What does he have to say about federalism? About republican government and its relation to executive power? What are his precepts for good government?

12. On June 19, Madison gave a long speech which resulted in the Convention's vote to re-report the Virginia Plan (pp. 149–155; less of Madison in Smith, pp. 162–164). What were his best arguments?

Third Class: The Great Compromise

Primary Reading: Solberg, pp. 156–223 (Federal Convention, June 19–July 16); or Smith, pp. 162–199.

Secondary Reading: Herbert Storing, "The Constitutional Convention: Toward a More Perfect Union," in Morton J. Frisch and Richard Stevens, eds. *American Political Thought: The Philosophic Dimension of American Statesmanship*, second edition (Peacock, 1983), pp. 51–68; John Roche, "The Founding Fathers: A Reform Caucus in Action," in *American Political Science Review*, vol. 55, no. 4 (Dec. 1961) pp. 799–816.

1. In several speeches, Luther Martin argues against the Virginia Plan, on the basis of the Declaration of Independence. What is his argument? (See pp. 157, 161, 179–181, 187; June 19, 20, 27, 29; not in Smith.) See Wilson's and Hamilton's replies, pp. 157–158 (June 19).

2. Prior to the "suffrage" debate, Doctor Johnson, of Connecticut, asks supporters of the Virginia Plan for reassurances that the states will retain their individuality (June 21, 29, pp. 163, 187). See the replies of Wilson and Madison (June 21, pp. 163–5; Smith, p. 175).

3. The critical votes on apportionment in the legislature occur on June 29 (p. 191), July 2 (p. 199) and July 16 (p. 222). In the first, the Convention votes for pro-

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portional representation for the lower house; in the second, it votes 5-5 on a proposal for state equality in the senate, thus necessitating a special committee of one delegate from each state; in the third, the entire compromise package—including the two apportionment principles and lower house leadership on money bills—is passed. What were the critical arguments in favor of this package? (In addition to Johnson, cited above, see Oliver Ellsworth, p. 191, July 2, and Sherman, p. 206, July 7.) What were the arguments against from Madison and the strong nationalists? (See pp. 194–5, July 2, and pp. 220–221 July 14; Smith pp. 173–182, 194–197.)

4. How does the Convention decide on the specific formula for apportionment in the lower house? Is there any single principle that can account for the final result (July 5–13, pp. 201–217; Smith, pp. 182–194)?

5. What was the effect of the "Great Compromise" on the Virginia Plan? On American federalism?

Fourth Class: Empowering the Government and the Election of the Presidency

Primary Reading: Solberg, pp. 223–344, especially pp. 223–251, 269–287 (Federal Convention, July 17-September 17); or Smith, pp. 199–234.

This material is best examined in three parts. In the first part, from July 17 to 26, the Convention considers the mode of electing the executive and a proposal for a council of revision. Then it adjourns for ten days while the Committee of Detail puts all the approved proposals into a constitutional form. In part two, from August 6 to 31, the Convention works with the Committee of Detail's proposals. The major topics here concern the compromise on navigation acts and slave importation and the treatment of qualifications for suffrage and office. Finally, in part three, another committee resolves the manner of electing the president, which also involves reeligibility and the treaty-making and appointment powers. The Convention adopts the Committee's proposal for electing the president, after making one change—election by the lower house, not the senate, if there is no majority of electors for a single candidate. After that, three non-signers—Edmund Randolph, Elbridge Gerry, and George Mason—express their reservations, and the Convention resolves to send the Constitution to Congress, directing that body to submit the document to the several states for ratification.

1. The two main modes of electing the president are by Congress and by electors (July 19–26, pp. 231–251; Smith, pp. 199–202). How are these proposals connected to reeligibility? Why did the Convention not favor direct popular election?

2. Also on the executive, note how the Committee of Detail (X, 1, p. 265; not in Smith) referred to "the executive power." What effect might that have on future debates over presidential power?

3. What alternatives were proposed for suffrage and qualifications for office? What was decided on these two matters and what were the advantages of these decisions (August 7–10, pp. 269–278; Smith, pp. 204–212)?

4. What were the issues surrounding the compromise over navigation acts (i.e. tariffs) and slave importation (August 21–29, pp. 279–287; Smith, pp. 212–214, only on slavery, not on navigation acts)? How important do you think this compromise was and what made it possible?

5. Why was the Convention so concerned about the senate's having too much power and influence over the executive? How did the framers attempt to remedy this problem (September 4–7, pp. 305–312; not in Smith)? How did the Twelfth Amendment change the mode of electing the president? What event necessitated the amendment? (Ans: the election of 1800.)

6. What were the reservations expressed by the three "non-signers" who remained to the end of the Convention (September 10, 15, pamphlet, pp. 318–319, 334–335, 335–338; Smith, pp. 227–229)?

Fifth Class: The Ratification Debate—Republican Government and Federalism

Primary Reading: *Federalist* 1, 9, 10, 15, 23, 33, 39, 44; *The Anti-Federalist*, "Letters of Federal Farmer" I–III, VI; "Essays of Brutus," I, V–VIII.

Secondary Reading: Storing, *What the Anti-Federalists were FOR* (University of Chicago, 1981); Murray Dry, "Anti-Federalism in the *Federalist*," in Charles Kesler, ed., *Reflection and Choice: Essays on the Federalist Papers* (Free Press, forthcoming 1987).

1. "The Essays of Brutus" and "The Letters of Federal Farmer" (which may have been written by Robert Yates, of New York, and Richard Henry Lee, of Virginia, respectively) approach, in comprehensiveness and quality, the famous letters of Publius. A comparison of the first letters of each author reveals the extent to which they both agree and disagree on the task facing the country and the nature of republican government.

2. Pursuing the republican government theme further, compare *Federalist* 10 and 39 (only the part on republican government here) with Brutus I and Federal Farmer I–II. What is the definition of republican government offered by Publius, and what is his major concern? How do Brutus and Federal Farmer offer a different definition? What is their major concern?

3. For a general discussion of federalism, compare *Federalist* 9, 15, and 39 with Federal Farmer I and VI. Both discussions may be compared to the early discussions in the Federal Convention.

4. For a discussion of the powers of government, compare *Federalist* 23, 33, and 44 to Brutus V–VIII. Note the alternatives suggested to the taxing and war powers. Note also the different interpretations of the "necessary and proper" clause.

Sixth Class: Ratification: Separation of Powers and the Bill of Rights

Primary Reading: *Federalist*: 47, 48, 51, 63, 70–72, 78, 84; *The Anti-Federalist*: Centinel I; Brutus II, XI, XII, XV; Henry (pp. 315–321).

Supplementary Reading: Harvey C. Mansfield, Jr., "Republicanizing the Executive," and James R. Stoner, Jr., "Constitutionalism and Judging in the *Federalist*," in Charles Kesler, ed., *Reflection and Choice: Essays on the Federalist Papers* (Free Press, forthcoming 1987).

1. The *Federalist* understanding of the separation of powers, as between the legislative and executive branches, can be contrasted to the views of Centinel and Patrick Henry.

2. For the best Anti-Federal discussion of the judiciary, see Brutus (XI, XII, XV), who argues that the judiciary will enhance both federal power at the expense of the states and establish itself as the supreme interpreter of the Constitution. Compare this to *Federalist* 78.

3. For the debate on the bill of rights, compare Brutus II with *Federalist* 84.

Conclusion: Final Questions

What were the best arguments of the Federalists and the Anti-Federalists? Assuming that the case for the Constitution was stronger than the case against it, to what extent were the Anti-Federalists, and those in agreement with their views of republican government and federalism, able to argue that the Constitution favored, or at least permitted, their views? How much did the Anti-Federalists win with the Bill of Rights? Does the Tenth Amendment change the character of the enumeration of powers?

Additional Reading

Martin Diamond, "Democracy and the Federalist: A Reconsideration of the Framers' Intent," *American Political Science Review*, vol. 53, no. 1 (March 1959), pp. 52–68; Diamond, "What the Framers Meant by Federalism," and Storing, "The Problem of Big Government," in Robert A. Goldwin, ed., *A Nation of States: Essays on the American Federal System*, second edition (Rand McNally, 1974), pp. 25–42; 67–89; Clinton Rossiter, *1787: The Grand Convention* (MacMillan Co., 1966); Gordon Wood, *The Creation of the American Republic: 1776–1787* (University of North Carolina Press, 1961), chapters 12–13; Cecelia M. Kenyon, ed. *The Antifederalists* (Bobbs Merrill Co., 1966), introductory essay; essays by Gordon S. Wood, Lance Banning, Jack P. Greene, Michael Malbin, Thomas J. Cronin, Philip B. Kurland, and Jack N. Rakove, in *this Constitution: Our Enduring Legacy* (Project '87 and Congressional Quarterly, 1986); Dry, "The Case Against Ratification: Anti-Federalist Constitutional Thought," and David Epstein, "The Case For Ratification: Federalist Constitutional Thought," in Leonard Levy and Dennis Mahoney, eds., *The Constitution: A History of its Framing and Ratification* (Macmillan, forthcoming 1987).

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It is the hope and expectation of the Project's governing committee that, through its activities and those of others, both students and the public alike will come to a greater awareness and comprehension of the American Constitution.

Core support for Project '87 comes from the William and Flora Hewlett Foundation. Additional grants for specific programs have been provided by the National Endowment for the the Humanities, which funds the magazine, and by the Andrew W. Mellon Foundation, the Lilly Endowment, Inc. of Indianapolis, Indiana, the Rockefeller Foundation, the Ford Foundation, CSX Corporation, the Exxon Education Foundation and the AT&T Foundation.

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Poster printing by Virginia Lithograph, Arlington, VA.

Poster display mounting system by the Leader Companies, Philadelphia, PA.

Printing of the *User's Guide* by Byrd Press, Richmond, VA.